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11 Attorneys for Plaintiff  
12 FEDERAL TRADE COMMISSION

11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 FEDERAL TRADE COMMISSION,

14 Plaintiff,

15 v.

16 DAMIAN KUTZNER, individually and as  
17 an officer of BROOKSTONE LAW P.C.  
18 (California), BROOKSTONE LAW P.C.  
19 (Nevada), ADVANTIS LAW P.C., and  
20 ADVANTIS LAW GROUP P.C.; VITO  
21 TORCHIA, JR., individually and as an  
22 officer of BROOKSTONE LAW P.C.  
23 (California) and BROOKSTONE LAW  
24 P.C. (Nevada); JONATHAN  
25 TARKOWSKI, individually and as an  
26 officer of BROOKSTONE LAW P.C.  
27 (California) and BROOKSTONE LAW  
28 P.C. (Nevada); R. GEOFFREY  
BRODERICK, individually and as an  
officer of ADVANTIS LAW P.C. and  
ADVANTIS LAW GROUP P.C.;  
CHARLES T. MARSHALL, individually  
and as an officer of ADVANTIS LAW  
P.C. and ADVANTIS LAW GROUP P.C.;  
BROOKSTONE LAW P.C., d/b/a  
BROOKSTONE LAW GROUP, a  
California professional corporation;  
BROOKSTONE LAW P.C., d/b/a  
BROOKSTONE LAW GROUP, a Nevada

Case No. SACV-00999-BRO  
(AFMx)

**FIRST AMENDED  
COMPLAINT FOR  
PERMANENT INJUNCTION  
AND OTHER EQUITABLE  
RELIEF**

1 professional corporation; ADVANTIS  
2 LAW P.C., a California professional  
3 corporation; ADVANTIS LAW GROUP  
4 P.C., a California professional corporation,  
5 and JEREMY FOTI, individually and as an  
6 officer of BROOKSTONE LAW P.C.  
7 (California), BROOKSTONE LAW P.C.  
8 (Nevada), ADVANTIS LAW P.C., and  
9 ADVANTIS LAW GROUP P.C.

10 Defendants.

11 Plaintiff, the Federal Trade Commission (“FTC”), for its Complaint, alleges:

12 1. The FTC brings this action under Section 13(b) of the Federal Trade  
13 Commission Act (“FTC Act”), 15 U.S.C. § 53(b), and the 2009 Omnibus  
14 Appropriations Act, Public Law 111-8, Section 626, 123 Stat. 524, 678 (Mar. 11,  
15 2009) (“Omnibus Act”), as clarified by the Credit Card Accountability  
16 Responsibility and Disclosure Act of 2009, Public Law 111-24, Section 511, 123  
17 Stat. 1734, 1763-64 (Mar. 22, 2009) (“Credit Card Act”), and amended by the  
18 Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-  
19 203, Section 1097, 124 Stat. 1376, 2102-03 (July 21, 2010) (“Dodd-Frank Act”),  
20 12 U.S.C. § 5538, to obtain temporary, preliminary, and permanent injunctive  
21 relief, rescission or reformation of contracts, restitution, the refund of monies paid,  
22 disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts  
23 or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the  
24 Mortgage Assistance Relief Services Rule (“MARS Rule”), 16 C.F.R. Part 322,  
25 recodified as Mortgage Assistance Relief Services, 12 C.F.R. Part 1015  
26 (“Regulation O”).

27 **JURISDICTION AND VENUE**

28 2. This Court has subject matter jurisdiction over this matter under 28  
U.S.C. §§ 1331, 1337(a), and 1345; 15 U.S.C. §§ 45(a), 53(b); and Section 626 of  
the Omnibus Act, as clarified by Section 511 of the Credit Card Act, and amended  
by Section 1097 of the Dodd-Frank Act, 12 U.S.C. § 5538.



1 and amended by § 1097, 124 Stat. at 2102-03, 12 U.S.C. § 5538; and 16 C.F.R.  
2 Part 322, recodified as 12 C.F.R. Part 1015.

3 **DEFENDANTS**

4 6. Defendant Brookstone Law P.C. (California), doing business as  
5 Brookstone Law Group (“Brookstone California”), is a California professional  
6 corporation. Defendant Brookstone Law P.C. (Nevada), doing business as  
7 Brookstone Law Group (“Brookstone Nevada”) (collectively with Brookstone  
8 California, “Brookstone”), is a Nevada professional corporation with a business  
9 address at 3050 Sirius Ave., Suite 104, Las Vegas, Nevada 89102. Brookstone’s  
10 principal places of business are, or were, at 6 Hutton Centre Drive, Santa Ana,  
11 California; 1503 South Coast Drive, Costa Mesa, California; 18400 Von Karman  
12 Avenue, Suite 1000, Irvine, California; and 18331 Von Karman Avenue, Irvine,  
13 California. Brookstone transacts or has transacted business in this district. At  
14 times material to this Complaint, acting alone or in concert with others, Brookstone  
15 has advertised, marketed, distributed, or sold mortgage assistance relief services to  
16 consumers in this district. Brookstone is a “law firm” offering mortgage assistance  
17 relief services to consumers by representing them in litigation against their lenders.

18 7. Defendants Advantis Law P.C. and Advantis Law Group P.C.  
19 (collectively, “Advantis”) are California professional corporations. Advantis’  
20 principal places of business are, or were, at 6 Hutton Centre Drive, Santa Ana,  
21 California; 18400 Von Karman Avenue, Suite 1000, Irvine, California; and 18331  
22 Von Karman Avenue, Irvine, California. Advantis transacts or has transacted  
23 business in this district. At times material to this Complaint, acting alone or in  
24 concert with others, Advantis has advertised, marketed, distributed, or sold  
25 mortgage assistance relief services to consumers in this district. Advantis is a “law  
26 firm” offering mortgage assistance relief services to consumers by representing  
27 them in litigation against their lenders.

1           8. Defendant Damian Kutzner (“Kutzner”) is a founder and the Chief  
2 Operating Officer of Brookstone and a principal or controlling person of Advantis.  
3 Kutzner and Vito Torchia, Jr. founded Brookstone after their prior business, United  
4 Law Group, a mortgage assistance “law firm,” was dissolved following an  
5 investigation and raid by multiple federal and local agencies. Although not an  
6 attorney, Kutzner controls the marketing and sales at both Brookstone and  
7 Advantis. At all times material to this Complaint, acting alone or in concert with  
8 others, he formulated, directed, controlled, had the authority to control, or  
9 participated in the acts and practices set forth in this Complaint. Defendant  
10 Kutzner, in connection with the matters alleged herein, transacts or has transacted  
11 business in this district.

12           9. Defendant Jeremy Foti (“Foti”) is an owner and controlling person of  
13 Brookstone and a principal or controlling person of Advantis. Foti was one of the  
14 co-founders of Brookstone in 2011. Although not an attorney, Foti controls the  
15 marketing and sales at both Brookstone and Advantis. At all times material to this  
16 Complaint, acting alone or in concert with others, he formulated, directed,  
17 controlled, had the authority to control, or participated in the acts and practices set  
18 forth in this Complaint. Defendant Foti, in connection with the matters alleged  
19 herein, transacts or has transacted business in this district.

20           10. Defendant Vito Torchia, Jr. (“Torchia”) was the managing attorney of  
21 Brookstone. Torchia co-founded both Brookstone and Advantis. Torchia was the  
22 counsel of record for all of Brookstone’s mass joinder cases. In August 2014, the  
23 California Bar found Torchia violated his ethical duties to his clients with respect  
24 to the provision of mortgage-related services, and declared him indefinitely  
25 ineligible to practice law in California. At all times material to this Complaint,  
26 acting alone or in concert with others, he formulated, directed, controlled, had the  
27 authority to control, or participated in the acts and practices set forth in this  
28

1 Complaint. Defendant Torchia, in connection with the matters alleged herein,  
2 transacts or has transacted business in this district.

3 11. Defendant Jonathan Tarkowski (“Tarkowski”) was, or is, the  
4 managing attorney of Brookstone and is or was an attorney with Advantis.  
5 Tarkowski was admitted to practice law in June 2014 in California. Brookstone  
6 hired Tarkowski in July 2015, and Tarkowski was Brookstone’s sole attorney at  
7 that time. At times material to this Complaint, acting alone or in concert with  
8 others, he formulated, directed, controlled, had the authority to control, or  
9 participated in the acts and practices set forth in this Complaint. Defendant  
10 Tarkowski, in connection with the matters alleged herein, transacts or has  
11 transacted business in this district.

12 12. Defendant R. Geoffrey Broderick (“Broderick”) is a director and  
13 Chief Financial Officer of Advantis. Although an attorney, Broderick is not  
14 licensed to practice law in California. In 2015, Broderick’s company, Resolution  
15 Law Group (“RLG”), was closed after the Connecticut and Florida Attorneys  
16 General filed a joint action alleging RLG and Broderick were falsely promising  
17 consumers mortgage relief through the filing of mass joinder actions. At times  
18 material to this Complaint, acting alone or in concert with others, he formulated,  
19 directed, controlled, had the authority to control, or participated in the acts and  
20 practices set forth in this Complaint. Defendant Broderick, in connection with the  
21 matters alleged herein, transacts or has transacted business in this district.

22 13. Defendant Charles T. Marshall (“Marshall”) is a director, Chief  
23 Executive Officer, and Secretary of Advantis. Marshall has also appeared as  
24 counsel in Brookstone’s *Wright v. Bank of America* mass joinder case. In 2015,  
25 Marshall was disciplined by the California Bar for violations related to mortgage  
26 assistance relief services, receiving a 90-day suspension from the practice of law in  
27 November 2015 for his ethical violations. At times material to this Complaint,  
28 acting alone or in concert with others, he formulated, directed, controlled, had the

1 authority to control, or participated in the acts and practices set forth in this  
2 Complaint. Defendant Marshall, in connection with the matters alleged herein,  
3 transacts or has transacted business in this district.

4 **COMMON ENTERPRISE**

5 14. Defendants Brookstone and Advantis (collectively, “Corporate  
6 Defendants”) have operated as a common enterprise while engaging in the  
7 unlawful acts and practices alleged below. Corporate Defendants are under  
8 common control, with common employees and a common address while marketing  
9 the same product. Defendants have used the names Brookstone and Advantis  
10 interchangeably. Defendants Kutzner, Foti, Torchia, Tarkowski, Broderick, and  
11 Marshall have formulated, directed, controlled, had the authority to control, or  
12 participated in the acts and practices of the Corporate Defendants that constitute  
13 the common enterprise.

14 **COMMERCE**

15 15. At all times material to this Complaint, Defendants maintained a  
16 substantial course of trade in or affecting commerce, as “commerce” is defined in  
17 Section 4 of the FTC Act, 15 U.S.C. § 44.

18 **DEFENDANTS’ BUSINESS ACTIVITIES**

19 16. Since at least 2011, Defendants have advertised, marketed, promoted,  
20 sold, and/or offered to sell mortgage assistance relief services. Defendants present  
21 themselves as experienced lawyers and law firms that include experienced  
22 litigators who would quickly, or without delay, file and actively pursue lawsuits  
23 against lenders on consumers’ behalf. Defendants target distressed homeowners,  
24 many of whom have fallen behind on their mortgage payments, and convince them  
25 to purchase legal services by telling them that they are likely to prevail in lawsuits  
26 against their lenders. Often Defendants tell consumers they will receive at least  
27 \$75,000 by suing their lender. They then extract thousands of dollars in upfront  
28 fees. In return, they provide little or nothing.

1        **Defendants Target Vulnerable Homeowners With Mass Mailers Hawking**  
2                                **Their Mortgage Assistance Relief Services**

3            17. Defendants prey on distressed homeowners, often identifying people  
4 who are at risk of foreclosure to send individualized marketing materials. These  
5 materials advertise mortgage assistance relief services, including mass joinder  
6 lawsuits to void mortgage notes and other actions to stop foreclosures.

7            18. One letter, sent to consumers around May 2012, says, “You may  
8 become a joined named plaintiff in a significant lawsuit that will seek, among other  
9 things, to void your note(s).”

10           19. Another letter, sent to consumers around August 2015, states,  
11 “Brookstone Law is preparing to sue the trustee assigned to foreclose on your  
12 property for wrongful foreclosure and demand that they immediately cancel your  
13 auction date.”

14           20. During the relevant time period, Defendants sent potential victims  
15 additional, similar letters.

16           21. Defendants’ marketing materials portray Defendants as legal  
17 practitioners with the resources and experience to successfully litigate complicated  
18 mass joinder cases. For example, in a May 2012 letter, Brookstone claimed that its  
19 “team of lawyers . . . has substantial experience in lender fraud and related claims.”  
20 It also claimed that “our team of experienced lawyers offers you a superior  
21 alternative for recovery.”

22           22. Defendants further promote their litigation experience by telling  
23 consumers “[i]t may be necessary to litigate your claims against your lender to get  
24 the help you need and our lawyers know how to do so.”

25           23. Defendants tell consumers that they can become a plaintiff in a  
26 significant litigation seeking “to void your note(s), to give you your home free and  
27 clear, and/or to award you relief and monetary damages.”  
28



1           24. Defendants’ marketing materials urge homeowners to act quickly and  
2 call Defendants in order to preserve their legal options.

3           25. For example, the May 2012 letter reads, “You should act now!  
4 Waiting may eliminate or reduce the many options you have available.” The letter  
5 goes on to say, “We encourage you to take prompt action by contacting us before  
6 05/12/2012.”

7           26. Similarly, an August 2015 letter identifies a recent California  
8 Supreme Court decision and tells consumers, “**URGENT the above decision will**  
9 **NOT stop the sale of your home so you MUST contact us now . . . Your home**  
10 **will be sold at Auction unless you take immediate action.**” Further, below the  
11 letter emphasizes “*Scheduled Trustee Auction Date: **8/26/2015***”.

12           27. Both the May 2012 and August 2015 letters are individually tailored  
13 for specific consumers. For example, the May 2012 letter is addressed to the  
14 homeowner by name, and contains at the bottom a table with the homeowner’s  
15 name, a “Client Case ID#,” the homeowner’s total loan amount, the homeowner’s  
16 parcel ID, and the property zip code. The August 2015 letter is also addressed to  
17 the homeowner by name, followed by a “Client ID #.” The letter includes the  
18 name of the homeowner’s mortgage lender, followed by the homeowner’s name  
19 and address.

20           28. Nowhere in the May 2012 or August 2015 letters did Defendants  
21 include any of the following disclaimers:

22           A. “You may stop doing business with us at any time. You may  
23 accept or reject the offer of mortgage assistance we obtain from  
24 your lender [or servicer]. If you reject the offer, you do not  
25 have to pay us. If you accept the offer, you will have to pay us  
26 [amount or method for calculating the amount] for our  
27 services”;

28

1 B. “[Brookstone or Advantis] is not associated with the  
2 government, and our service is not approved by the government  
3 or your lender”; or

4 C. “Even if you accept this offer and use our service, your lender  
5 may not agree to change your loan.”

6 29. Defendants likewise did not include such disclaimers in the other,  
7 similar letters that they sent to homeowners.

8 30. In addition to consumer-specific communications, Defendants also  
9 solicited business from distressed homeowners through websites advertising  
10 Brookstone and Advantis. [www.brookstonelaw.com](http://www.brookstonelaw.com), [www.advantislaw.com](http://www.advantislaw.com).

11 31. For example, the Brookstone website trumpets its experience, stating  
12 “This is an important announcement for anyone in America who currently is in  
13 danger of losing their home due to foreclosure or other related action of their  
14 lender. There is help available for you now. Brookstone Law has a team of  
15 experienced litigation attorneys that can help people victimized by violations  
16 where banks, loan servicers, or others have taken advantage of honest  
17 homeowners.”

18 32. Although purportedly separate law firms, both Brookstone and  
19 Advantis advertise the same services on their websites, in many instances using  
20 identical language.

21 33. Both the Brookstone and Advantis websites use identical language in  
22 describing their real estate legal services, each claiming: “Every transaction in the  
23 world of real estate is essentially a contract negotiation and a business transaction.  
24 At the same time there is often a strong element of emotion involved in real estate  
25 ownership and possession. . . . We proceed with decisiveness while exercising  
26 caution as necessary to avoid litigation and resolve disputes in the most  
27 expeditious, beneficial way for our clients.”  
28

1           34. Both the Brookstone and Advantis websites tout the mass joinder suit  
2 *Wright v. Bank of America* as their own. Both websites use the same description  
3 for the case: “This lawsuit arises from: (1) Defendants’ deception in inducing  
4 Plaintiffs to enter into mortgages from 2003 through 2008 with the Countrywide  
5 Defendants; (2) Defendants’ breach of Plaintiffs’ Constitutionally and statutorily  
6 protected rights of privacy; and (3) Defendants’ continuing tortious conduct  
7 intended to deprive Plaintiffs of their rights and remedies for the foregoing acts.”

8           35. Nowhere on their websites did Defendants include any of the  
9 following disclaimers:

10           A. “[Brookstone or Advantis] is not associated with the  
11 government, and our service is not approved by the government  
12 or your lender”; or

13           B. “Even if you accept this offer and use our service, your lender  
14 may not agree to change your loan.”

15           36. In all of these communications, Defendants encouraged homeowners  
16 to contact them through one of their toll-free numbers.

17           **When Consumers Respond to the Mass Mailers, Defendants Promise**  
18           **Consumers Lawsuits and Favorable Results**

19           37. Once homeowners call Defendants, sales representatives convince  
20 them that they are signing up for lawsuits, and that by so doing they will achieve  
21 favorable results.

22           38. Defendants’ main products are “mass joinder” lawsuits against the  
23 homeowners’ mortgage lender. These lawsuits join dozens, or even hundreds, of  
24 individual plaintiffs in a single action against a particular lender. These are not  
25 class action lawsuits. Each individual plaintiff’s claim must be separately proven  
26 and, in the event of a trial, each individual plaintiff would have a separate trial.  
27 For example, Defendants filed *Wright v. Bank of America* on behalf of over 900  
28 plaintiffs asserting unique claims. As alleged, they share some factual overlap,

1 such as the alleged fraud on the market to drive up home prices, but do not share  
2 any other particulars that would need to be proven for a specific plaintiff to prevail.  
3 Defendants filed similar suits against a number of other banks, including  
4 CitiGroup, JP Morgan Chase, Wells Fargo, Ally Bank, OneWest Bank, and Ocwen  
5 Financial Corporation.

6 39. On numerous occasions, Defendants presented these lawsuits as,  
7 among other things, ways to delay foreclosures, negotiate loan modifications, or  
8 obtain forbearance on mortgage payments. For example, one consumer was told  
9 that because his claim was worth \$75,000 the bank would seek to renegotiate the  
10 loan amount.

11 40. Defendants' offers include unsupported assessments about the  
12 likelihood of success. Such assessments start with a homeowner's very first  
13 conversation with one of Defendants' telemarketers—non-lawyers charged with  
14 collecting the homeowner's information.

15 41. For example, one of Defendants' telemarketers told an undercover  
16 FTC investigator, during his initial call, that Brookstone could stop a foreclosure  
17 and renegotiate his loan to lower his monthly payments, even though the  
18 investigator did not provide any information about his house, the size of his  
19 mortgage, or his income.

20 42. Once telemarketers convince homeowners to come into Defendants'  
21 offices for in-person meetings, Defendants give the homeowners further  
22 assessments of their likelihood of success in the mass joinder cases.

23 43. During these initial meetings, Defendants tell consumers they need to  
24 perform a "legal analysis" to evaluate the viability of a claim against their  
25 mortgage holder. Consumers pay Defendants \$895, sometimes more, before  
26 Defendants' conduct their "legal analysis."

27 44. On numerous occasions, Defendants then provide homeowners a  
28 "legal analysis," stating that the fraud in their mortgage paperwork was obvious.

1 Defendants told such homeowners that they were likely, or even certain, to prevail,  
2 if they retained the Defendants for a mass joinder suit against their lender. On  
3 numerous occasions, Defendants told homeowners that they would recover “at  
4 least \$75,000.”

5 45. Additionally, Defendants told consumers they would quickly file a  
6 lawsuit and actively litigate on their behalf.

7 **Defendants Request and Receive Advance Fees**

8 46. Based on their promises, Defendants request and receive advance  
9 fees—payments that come before homeowners receive any benefit from their  
10 services—in two steps.

11 47. First, as described above in paragraph 43, consumers pay an advance  
12 fee for the “legal analysis.”

13 48. Second, Defendants’ “legal analysis” almost invariably results in  
14 Defendants telling consumers they have a really good case against their lender.  
15 Defendants then charge homeowners thousands of dollars for the opportunity to  
16 sign up for one of their mass joinder lawsuits.

17 49. Although Defendants’ mass joinder litigations are purportedly  
18 “contingency fee” actions, Defendants collect both upfront fees and continuing  
19 payments from consumers. Defendants charge homeowners a recurring monthly  
20 fee to maintain their status as named plaintiffs.

21 50. Defendants received at least \$15 million through 2014.

22 51. Defendants do not deposit payments in client trust accounts, as  
23 required by law. Instead, they treat these funds as if they were fully earned, and  
24 use them for expenses as they receive them.

25 52. On numerous occasions, homeowners asked for refunds for amounts  
26 paid because they had received no service or benefit. On many of these occasions,  
27 Defendants refused homeowners’ requests.

28

1        **Defendants Do Not Deliver Promised Outcomes or Quickly File Lawsuits**

2            53. Defendants' promise to quickly file lawsuits that will provide  
3 homeowners substantial monetary awards, lower mortgages, or voided notes have  
4 no reasonable relationship with any actual services they provide or outcomes they  
5 achieve for homeowners.

6            54. Defendants have not won a single mass joinder lawsuit on the merits.

7            55. Far from the certainty of winning "at least \$75,000," and possibly  
8 obtaining their homes free and clear of any mortgage, Defendants did not even  
9 seek such relief. In fact, as early as February 2012, Defendants tried to avoid  
10 federal court jurisdiction by arguing on their clients' behalf that they were, in fact,  
11 **not** seeking to void their clients' notes or obtain their clients' homes free and clear.  
12 *See* Pltf. Reply in Support of Motion to Remand, at 15-16, (DE 24), *Potter v. JP*  
13 *Morgan Chase Bank N.A.*, No. 11-10255 (C.D. Cal.) ("Plaintiffs do not seek to set  
14 aside Defendants' loans, nor rescind them but rather seek loss of equity damages  
15 resulting from Defendants' wrongful conduct.")

16            56. Eleven of the twelve Brookstone mass joinder cases filed before  
17 2016 have been dismissed. In March and April 2016 defendants filed three more  
18 mass joinder cases.

19            57. Brookstone's mass joinder cases have been dismissed for varied  
20 reasons, including for lack of prosecution, for misjoinder, on demurrer, and on  
21 voluntary dismissal. Of their original cases, the only surviving case is *Wright v.*  
22 *Bank of America*, No. 30-2011-449059 (Sup. Ct. Cal. Orange County). No court  
23 has spoken to the merits of the claims in that lawsuit. Initially dismissed for  
24 misjoinder, the California Court of Appeal allowed it to proceed in spite of its  
25 "desultory and scattered allegations," but required Defendants to replead the  
26 Complaint into an intelligible pleading. *Wright v. Bank of America*, 232 Cal. App.  
27 4th 238, 254 (2014), *review denied* (Mar. 25, 2015). It then took Defendants  
28 almost ten months to file their fourth amended complaint in January 2016;

1 Brookstone has now told the court it will again need to amend its complaint.  
2 Brookstone Nevada has filed only one mass joinder lawsuit, which was removed to  
3 federal court and dismissed for misjoinder. *Garner v. Bank of America*, No. 12-  
4 02076, D.E. 35 (D. Nev. May 29, 2013).

5 58. Defendants do not take affirmative steps to prosecute these cases.  
6 Instead, they do minimal work, only sometimes responding to demurrers, while  
7 filing amended complaints adding additional consumers they have signed up.  
8 They have not pursued discovery in their cases, either not seeking discovery or  
9 agreeing to stays of discovery. In several instances they voluntarily dismissed the  
10 cases without prejudice and have not since refiled the cases to pursue their paying  
11 clients' claims.

12 59. Defendants do not perform the tasks that they promise their clients  
13 they will undertake. For example, on numerous occasions, Defendants told  
14 homeowners that they would add them as plaintiffs to mass joinder cases, but  
15 never did so. On numerous other occasions, Defendants tell homeowners they  
16 will be added to lawsuits shortly, but months pass before they are added.

17 60. Defendants do not communicate with clients or respond to client  
18 requests about how they are litigating the clients' case. Numerous clients  
19 repeatedly asked for updates regarding how their case was proceeding and received  
20 no response whatsoever. When Brookstone vacated its offices in late 2014,  
21 Defendants refused to tell clients the location of its new office; then, when pressed,  
22 lied to its clients about where its offices were located.

23 61. Defendants do not tell clients that their lawsuits have been dismissed  
24 and continue collecting monthly fees. Often clients determine on their own that  
25 their cases have been dismissed.

26 62. In August 2014, the California Bar court found Defendant Torchia  
27 had violated his ethical duties to his clients with respect to provision of mortgage-  
28 related services, including 16 counts of misconduct, such as failure to perform

1 legal services with competence, failure to maintain records of client funds and  
2 render appropriate accounts to the client, failure to return unearned funds, and  
3 failure to return client papers/property.

4 63. During his ethics trial, Torchia testified he did not have the experience  
5 to be lead counsel on the mass joinder cases. He further conceded that Brookstone  
6 failed to provide the most basic elements of legal representation, including  
7 properly communicating with clients, adequately explaining what consumers  
8 should expect from the representation, and returning unearned fees.

9 64. Confirming Torchia's own admissions, the California Bar court found  
10 that Defendant Torchia "lacked and continue[d] to lack the law-office-management  
11 skills and **basic knowledge of mortgage lending law and bankruptcy law**  
12 necessary to adequately and properly represent some 4,000 mortgage loan clients."  
13 (Emphasis supplied.)

14 65. Similarly, Tarkowski does not have any relevant experience, let alone  
15 experience litigating complicated fraud cases on behalf of several hundred separate  
16 plaintiffs.

17 66. Contrary to Defendants' claims that they know how to obtain the  
18 promised results and have the ability to pursue these claims, they in fact do not  
19 have any attorneys on staff with the relevant experience or sufficient resources to  
20 simultaneously litigate hundreds or thousands of fraud cases.

21 67. Defendants operate from an office with only one full-time attorney  
22 with support from no more than a handful of paralegals.

23 **VIOLATIONS OF THE FTC ACT**

24 68. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits "unfair or  
25 deceptive acts or practices in or affecting commerce."

26 69. Misrepresentations or deceptive omissions of material fact are  
27 prohibited deceptive acts or practices.  
28



**COUNT I**

1  
2           70. In numerous instances in connection with the advertising, marketing,  
3 promotion, offering for sale, or sale of mortgage assistance relief services,  
4 Defendants or their agents have represented, directly or indirectly, expressly or by  
5 implication, that:

- 6           A. Defendants are likely to obtain relief for consumers, including  
7 in some instances “at least \$75,000” or consumers’ homes free  
8 and clear;  
9           B. Defendants will seek to void consumers’ mortgages;  
10           C. Defendants have a team of experienced lawyers and personnel  
11 to litigate mass joinder cases alleging lender fraud and related  
12 claims on behalf of hundreds or thousands of clients  
13 simultaneously; and  
14           D. Defendants will file lawsuits on particular consumers’ behalf.

15           71. In truth and in fact:

- 16           A. Defendants are not likely to obtain relief for consumers, much  
17 less \$75,000 or consumers’ homes free and clear;  
18           B. Defendants do not seek to void consumers’ mortgages;  
19           C. Defendants do not have a team of experienced lawyers and  
20 personnel to litigate mass joinder cases alleging lender fraud  
21 and related claims on behalf of hundreds or thousands of clients  
22 simultaneously; and  
23           D. Defendants do not file lawsuits on behalf of particular  
24 consumers.

25           72. Therefore, Defendants’ representations as set forth in Paragraph 70 of  
26 this Complaint are false and misleading, and constitute a deceptive practice in  
27 violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).  
28

## VIOLATIONS OF THE MARS RULE

1  
2           73. In 2009, Congress directed the FTC to prescribe rules prohibiting  
3 unfair or deceptive acts or practices with respect to mortgage loans. Omnibus Act,  
4 § 626, 123 Stat. at 678, as clarified by Credit Card Act, § 511, 123 Stat. at 1763-  
5 64. Pursuant to that direction, the FTC promulgated the MARS Rule, 16 C.F.R.  
6 Part 322, all but one of the provisions of which became effective on December 29,  
7 2010. The remaining provision, Section 322.5, became effective on January 31,  
8 2011. The Dodd-Frank Act, § 1097, 124 Stat. at 2102-03, 12 U.S.C. § 5538,  
9 transferred rulemaking authority over the MARS Rule to the Consumer Financial  
10 Protection Bureau, which recodified the Rule as 12 C.F.R. Part 1015 effective  
11 December 30, 2011, and designated it “Regulation O.” The FTC retains authority  
12 to enforce the MARS Rule pursuant to Dodd-Frank Act § 1097, 12 U.S.C. § 5538.

13           74. The MARS Rule and Regulation O define “mortgage assistance relief  
14 service provider” as “any person that provides, offers to provide, or arranges for  
15 others to provide, any mortgage assistance relief service” other than the dwelling  
16 loan holder, the servicer of a dwelling loan, or any agent or contractor of such  
17 individual or entity. 16 C.F.R. § 322.2, recodified as 12 C.F.R. § 1015.2.

18           75. Defendants are “mortgage assistance relief service provider[s]”  
19 engaged in the provision of “mortgage assistance relief services” as those terms are  
20 defined in the MARS Rule and Regulation O, 16 C.F.R. § 322.2, recodified as 12  
21 C.F.R. § 1015.2.

22           76. The MARS Rule and Regulation O prohibit any mortgage assistance  
23 relief service provider from misrepresenting, expressly or by implication, the  
24 likelihood of negotiating, obtaining, or arranging any represented service or result.  
25 16 C.F.R. § 322.3(b)(1), recodified as 12 C.F.R. § 1015.3(b)(1).

26           77. The MARS Rule and Regulation O prohibit any mortgage assistance  
27 relief service provider from requesting or receiving payment of any fee or other  
28 consideration until the consumer has executed a written agreement between the

1 consumer and the consumer's loan holder or servicer that incorporates the offer  
2 that the provider obtained from the loan holder or servicer. 16 C.F.R. § 322.5(a),  
3 recodified as 12 C.F.R. § 1015.5(a).

4 78. The MARS Rule and Regulation O require any mortgage assistance  
5 relief service provider to place a statement in every general commercial  
6 communication disclosing that (i) the provider is not associated with the  
7 government and its service is not approved by the government or any lender, and  
8 (ii) in certain cases, a statement disclosing that the lender may not agree to modify  
9 a loan, even if the consumer uses the provider's service. 16 C.F.R. §§ 322.4(a)(1)-  
10 (2), recodified as 12 C.F.R. §§ 1015.4(a)(1)-(2).

11 79. The MARS Rule and Regulation O require any mortgage assistance  
12 relief service provider to place a statement in every consumer-specific commercial  
13 communication (i) confirming that the consumer may stop doing business with the  
14 provider or reject an offer of mortgage assistance without having to pay for the  
15 services, (ii) disclosing that the provider is not associated with the government and  
16 its service is not approved by the government or any lender, and (iii) in certain  
17 cases, a statement disclosing that the lender may not agree to modify a loan, even if  
18 the consumer uses the provider's service. 16 C.F.R. §§ 322.4(b)(1)-(3), recodified  
19 as 12 C.F.R. §§ 1015.4(b)(1)-(3).

20 80. Pursuant to the Omnibus Act, § 626, 123 Stat. at 678, as clarified by  
21 the Credit Card Act, § 511, 123 Stat. at 1763-64 and amended by the Dodd-Frank  
22 Act, § 1097, 124 Stat. at 2102-03, 12 U.S.C. § 5538, and pursuant to Section  
23 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the MARS Rule or  
24 Regulation O constitutes an unfair or deceptive act or practice in or affecting  
25 commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

## 26 **COUNT II**

27 81. In numerous instances, in connection with the offering or provision of  
28 mortgage assistance relief services, Defendants, either acting alone or in concert

1 with others, ask for, or receive, payment before consumers have executed a written  
2 agreement with their loan holder or servicer that incorporates the offer obtained by  
3 Defendants, in violation of the MARS Rule and Regulation O, 16 C.F.R. §  
4 322.5(a), 12 C.F.R. § 1015.5(a).

5 **COUNT III**

6 82. In numerous instances, in connection with the offering or provision of  
7 mortgage assistance relief services, Defendants, in violation of the MARS Rule  
8 and Regulation O, 16 C.F.R. § 322.3(b), 12 C.F.R. § 1015.3(b), either acting alone  
9 or in concert with others, misrepresent, expressly or by implication, material  
10 aspects of their services, including but not limited to:

- 11 A. Defendants' likelihood of obtaining relief for consumers, such  
12 as consumers' homes free and clear;  
13 B. Defendants would seek to void consumers' mortgages.

14 **COUNT IV**

15 83. In numerous instances, in connection with the offering or provision of  
16 mortgage assistance relief services, Defendants, either acting alone or in concert  
17 with others, fail to make the following disclosures:

- 18 A. In general commercial communications:  
19 i. "[Brookstone or Advantis] is not associated with the  
20 government, and our service is not approved by the  
21 government or your lender," in violation of the MARS  
22 Rule and Regulation O, 16 C.F.R. § 322.4(a)(1), 12  
23 C.F.R. § 1015.4(a)(1); and  
24 ii. "Even if you accept this offer and use our service, your  
25 lender may not agree to change your loan," in violation  
26 of the MARS Rule and Regulation O, 16 C.F.R. §  
27 322.4(a)(2), 12 C.F.R. § 1015.4(a)(2).  
28 B. In consumer-specific commercial communications:



1 the exercise of its equitable jurisdiction, may award ancillary relief, including  
2 rescission or reformation of contracts, restitution, the refund of monies paid, and  
3 the disgorgement of ill-gotten monies, to prevent and remedy any violation of any  
4 provision of law enforced by the FTC.

5 86. Section 626 of the Omnibus Act authorizes the Court to grant such  
6 relief as the Court finds necessary to redress consumer injury resulting from  
7 Defendants' violations of the MARS Rule, including rescission and reformation of  
8 contracts and the refund of money.

9 **PRAYER FOR RELIEF**

10 87. Wherefore, Plaintiff FTC, pursuant to Section 13(b) of the FTC Act,  
11 15 U.S.C. § 53(b), the Omnibus Act, and the Court's own equitable powers,  
12 requests that the Court:

- 13 A. Award Plaintiff such preliminary injunctive and ancillary relief  
14 as may be necessary to avert the likelihood of consumer injury  
15 during the pendency of this action and to preserve the  
16 possibility of effective final relief, including but not limited to:
- 17 i. A preliminary injunction that prohibits Defendants from  
18 soliciting business, requesting payments, or receiving  
19 payments;
  - 20 ii. An order freezing Defendants' assets; and
  - 21 iii. Appointment of a receiver for Brookstone and Advantis.
- 22 B. Enter a permanent injunction to prevent future violations of the  
23 FTC Act and the MARS Rule by Defendants;
- 24 C. Award such relief as the Court finds necessary to redress injury  
25 to consumers resulting from Defendants' violations of the FTC  
26 Act and the MARS Rule, including but not limited to rescission  
27 or reformation of contracts, restitution, the refund of monies  
28 paid, and the disgorgement of ill-gotten monies;

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D. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Respectfully submitted,

DAVID C. SHONKA  
Acting General Counsel

Dated: July 5, 2016

/s/ Benjamin Theisman  
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11 Attorneys for Plaintiff  
12 FEDERAL TRADE COMMISSION

11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 FEDERAL TRADE COMMISSION,

14 Plaintiff,

15 v.

16 DAMIAN KUTZNER, individually and as  
17 an officer of BROOKSTONE LAW P.C.  
18 (California), BROOKSTONE LAW P.C.  
19 (Nevada), ADVANTIS LAW P.C., and  
20 ADVANTIS LAW GROUP P.C.; VITO  
21 TORCHIA, JR., individually and as an  
22 officer of BROOKSTONE LAW P.C.  
23 (California) and BROOKSTONE LAW  
24 P.C. (Nevada); JONATHAN  
25 TARKOWSKI, individually and as an  
26 officer of BROOKSTONE LAW P.C.  
27 (California) and BROOKSTONE LAW  
28 P.C. (Nevada); R. GEOFFREY  
BRODERICK, individually and as an  
officer of ADVANTIS LAW P.C. and  
ADVANTIS LAW GROUP P.C.;  
CHARLES T. MARSHALL, individually  
and as an officer of ADVANTIS LAW  
P.C. and ADVANTIS LAW GROUP P.C.;  
BROOKSTONE LAW P.C., d/b/a  
BROOKSTONE LAW GROUP, a  
California professional corporation;  
BROOKSTONE LAW P.C., d/b/a  
BROOKSTONE LAW GROUP, a Nevada

Case No. **SACV-00999-BRO**  
**(AFMx)**

**FIRST AMENDED  
COMPLAINT FOR  
PERMANENT INJUNCTION  
AND OTHER EQUITABLE  
RELIEF**



1 professional corporation; ADVANTIS  
2 LAW P.C., a California professional  
3 corporation; ~~and~~ ADVANTIS LAW  
4 GROUP P.C., a California professional  
5 corporation, and JEREMY FOTI,  
6 individually and as an officer of  
7 BROOKSTONE LAW P.C. (California),  
8 BROOKSTONE LAW P.C. (Nevada),  
9 ADVANTIS LAW P.C., and ADVANTIS  
10 LAW GROUP P.C.

11 Defendants.

12 Plaintiff, the Federal Trade Commission (“FTC”), for its Complaint, alleges:

13 1. The FTC brings this action under Section 13(b) of the Federal Trade  
14 Commission Act (“FTC Act”), 15 U.S.C. § 53(b), and the 2009 Omnibus  
15 Appropriations Act, Public Law 111-8, Section 626, 123 Stat. 524, 678 (Mar. 11,  
16 2009) (“Omnibus Act”), as clarified by the Credit Card Accountability  
17 Responsibility and Disclosure Act of 2009, Public Law 111-24, Section 511, 123  
18 Stat. 1734, 1763-64 (Mar. 22, 2009) (“Credit Card Act”), and amended by the  
19 Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-  
20 203, Section 1097, 124 Stat. 1376, 2102-03 (July 21, 2010) (“Dodd-Frank Act”),  
21 12 U.S.C. § 5538, to obtain temporary, preliminary, and permanent injunctive  
22 relief, rescission or reformation of contracts, restitution, the refund of monies paid,  
23 disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts  
24 or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the  
25 Mortgage Assistance Relief Services Rule (“MARS Rule”), 16 C.F.R. Part 322,  
26 recodified as Mortgage Assistance Relief Services, 12 C.F.R. Part 1015  
27 (“Regulation O”).

### 28 JURISDICTION AND VENUE

1 This Court has subject matter jurisdiction over this matter under 28  
2 U.S.C. §§ 1331, 1337(a), and 1345; 15 U.S.C. §§ 45(a), 53(b); and Section 626 of

1 the Omnibus Act, as clarified by Section 511 of the Credit Card Act, and amended  
2 by Section 1097 of the Dodd-Frank Act, 12 U.S.C. § 5538.

3 3. Venue is proper in this district under 28 U.S.C. § 1391(b)(1), (b)(2),  
4 (c)(1), (c)(2), and (d), and 15 U.S.C. § 53(b).

5 **PLAINTIFF**

6 4. The FTC is an independent agency of the United States Government  
7 created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC  
8 Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or  
9 affecting commerce. Pursuant to the Omnibus Act § 626, 123 Stat. at 678, as  
10 clarified by the Credit Card Act, § 511, 123 Stat. at 1763-64, the FTC promulgated  
11 the MARS Rule, 16 C.F.R. Part 322. The MARS Rule generally defines mortgage  
12 assistance relief services as express or implied assistance in, among other things,  
13 stopping or delaying foreclosures, negotiating or obtaining any modification of any  
14 term of a mortgage loan, and obtaining forbearance on mortgage payments. The  
15 MARS Rule prohibits certain conduct by providers of mortgage assistance relief  
16 services, including the collection of advance fees, the making of certain  
17 representations, and the failure to make certain disclosures. The Dodd-Frank Act,  
18 § 1097, 124 Stat. at 2102-03, 12 U.S.C. § 5538, transferred rulemaking authority  
19 over the MARS Rule to the Consumer Financial Protection Bureau, which  
20 recodified the MARS Rule as 12 C.F.R. Part 1015 effective December 30, 2011,  
21 and designated it Regulation O. Pursuant to the Dodd-Frank Act, § 1097, 12  
22 U.S.C. § 5538, the FTC retains its authority to enforce the MARS Rule and  
23 Regulation O.

24 5. The FTC is authorized to initiate federal district court proceedings, by  
25 its own attorneys, to enjoin violations of the FTC Act; the Omnibus Act as clarified  
26 by the Credit Card Act and amended by the Dodd-Frank Act; the MARS Rule; and  
27 Regulation O, and to secure such equitable relief as may be appropriate in each  
28 case, including rescission or reformation of contracts, restitution, the refund of

1 monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b),  
2 56(a)(2)(A)-(B); § 626, 123 Stat. at 678, as clarified by § 511, 123 Stat. at 1763-64  
3 and amended by § 1097, 124 Stat. at 2102-03, 12 U.S.C. § 5538; and 16 C.F.R.  
4 Part 322, recodified as 12 C.F.R. Part 1015.

5 **DEFENDANTS**

6 6. Defendant Brookstone Law P.C. (California), doing business as  
7 Brookstone Law Group (“Brookstone California”), is a California professional  
8 corporation. Defendant Brookstone Law P.C. (Nevada), doing business as  
9 Brookstone Law Group (“Brookstone Nevada”) (collectively with Brookstone  
10 California, “Brookstone”), is a Nevada professional corporation with a business  
11 address at 3050 Sirius Ave., Suite 104, Las Vegas, Nevada 89102. Brookstone’s  
12 principal places of business are, or were, at 6 Hutton Centre Drive, Santa Ana,  
13 California; 1503 South Coast Drive, Costa Mesa, California; 18400 Von Karman  
14 Avenue, Suite 1000, Irvine, California; and 18331 Von Karman Avenue, Irvine,  
15 California. Brookstone transacts or has transacted business in this district. At  
16 times material to this Complaint, acting alone or in concert with others, Brookstone  
17 has advertised, marketed, distributed, or sold mortgage assistance relief services to  
18 consumers in this district. Brookstone is a “law firm” offering mortgage assistance  
19 relief services to consumers by representing them in litigation against their lenders.

20 7. Defendants Advantis Law P.C. and Advantis Law Group P.C.  
21 (collectively, “Advantis”) are California professional corporations. Advantis’  
22 principal places of business are, or were, at 6 Hutton Centre Drive, Santa Ana,  
23 California; 18400 Von Karman Avenue, Suite 1000, Irvine, California; and 18331  
24 Von Karman Avenue, Irvine, California. Advantis transacts or has transacted  
25 business in this district. At times material to this Complaint, acting alone or in  
26 concert with others, Advantis has advertised, marketed, distributed, or sold  
27 mortgage assistance relief services to consumers in this district. Advantis is a “law  
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1 firm” offering mortgage assistance relief services to consumers by representing  
2 them in litigation against their lenders.

3 8. Defendant Damian Kutzner (“Kutzner”) is a founder and the Chief  
4 Operating Officer of Brookstone and a principal or controlling person of Advantis.  
5 Kutzner and Vito Torchia, Jr. founded Brookstone after their prior business, United  
6 Law Group, a mortgage assistance “law firm,” was dissolved following an  
7 investigation and raid by multiple federal and local agencies. Although not an  
8 attorney, Kutzner controls the marketing and sales at both Brookstone and  
9 Advantis. At all times material to this Complaint, acting alone or in concert with  
10 others, he formulated, directed, controlled, had the authority to control, or  
11 participated in the acts and practices set forth in this Complaint. Defendant  
12 Kutzner, in connection with the matters alleged herein, transacts or has transacted  
13 business in this district.

14 8.9. Defendant Jeremy Foti (“Foti”) is an owner and controlling person of  
15 Brookstone and a principal or controlling person of Advantis. Foti was one of the  
16 co-founders of Brookstone in 2011. Although not an attorney, Foti controls the  
17 marketing and sales at both Brookstone and Advantis. At all times material to this  
18 Complaint, acting alone or in concert with others, he formulated, directed,  
19 controlled, had the authority to control, or participated in the acts and practices set  
20 forth in this Complaint. Defendant Foti, in connection with the matters alleged  
21 herein, transacts or has transacted business in this district.

22 9.10. Defendant Vito Torchia, Jr. (“Torchia”) was the managing attorney of  
23 Brookstone. Torchia co-founded both Brookstone and Advantis. Torchia was the  
24 counsel of record for all of Brookstone’s mass joinder cases. In August 2014, the  
25 California Bar found Torchia violated his ethical duties to his clients with respect  
26 to the provision of mortgage-related services, and declared him indefinitely  
27 ineligible to practice law in California. At all times material to this Complaint,  
28 acting alone or in concert with others, he formulated, directed, controlled, had the

1 authority to control, or participated in the acts and practices set forth in this  
2 Complaint. Defendant Torchia, in connection with the matters alleged herein,  
3 transacts or has transacted business in this district.

4 ~~10.~~11. Defendant Jonathan Tarkowski (“Tarkowski”) was, or is, the  
5 managing attorney of Brookstone and is or was an attorney with Advantis.  
6 Tarkowski was admitted to practice law in June 2014 in California. Brookstone  
7 hired Tarkowski in July 2015, and Tarkowski was Brookstone’s sole attorney at  
8 that time. At times material to this Complaint, acting alone or in concert with  
9 others, he formulated, directed, controlled, had the authority to control, or  
10 participated in the acts and practices set forth in this Complaint. Defendant  
11 Tarkowski, in connection with the matters alleged herein, transacts or has  
12 transacted business in this district.

13 ~~11.~~12. Defendant R. Geoffrey Broderick (“Broderick”) is a director and  
14 Chief Financial Officer of Advantis. Although an attorney, Broderick is not  
15 licensed to practice law in California. In 2015, Broderick’s company, Resolution  
16 Law Group (“RLG”), was closed after the Connecticut and Florida Attorneys  
17 General filed a joint action alleging RLG and Broderick were falsely promising  
18 consumers mortgage relief through the filing of mass joinder actions. At times  
19 material to this Complaint, acting alone or in concert with others, he formulated,  
20 directed, controlled, had the authority to control, or participated in the acts and  
21 practices set forth in this Complaint. Defendant Broderick, in connection with the  
22 matters alleged herein, transacts or has transacted business in this district.

23 ~~12.~~13. Defendant Charles T. Marshall (“Marshall”) is a director, Chief  
24 Executive Officer, and Secretary of Advantis. Marshall has also appeared as  
25 counsel in Brookstone’s *Wright v. Bank of America* mass joinder case. In 2015,  
26 Marshall was disciplined by the California Bar for violations related to mortgage  
27 assistance relief services, receiving a 90-day suspension from the practice of law in  
28 November 2015 for his ethical violations. At times material to this Complaint,

1 acting alone or in concert with others, he formulated, directed, controlled, had the  
2 authority to control, or participated in the acts and practices set forth in this  
3 Complaint. Defendant Marshall, in connection with the matters alleged herein,  
4 transacts or has transacted business in this district.

5 **COMMON ENTERPRISE**

6 ~~13.14.~~ Defendants Brookstone and Advantis (collectively, “Corporate  
7 Defendants”) have operated as a common enterprise while engaging in the  
8 unlawful acts and practices alleged below. Corporate Defendants are under  
9 common control, with common employees and a common address while marketing  
10 the same product. Defendants have used the names Brookstone and Advantis  
11 interchangeably. Defendants Kutzner, Foti, Torchia, Tarkowski, Broderick, and  
12 Marshall have formulated, directed, controlled, had the authority to control, or  
13 participated in the acts and practices of the Corporate Defendants that constitute  
14 the common enterprise.

15 **COMMERCE**

16 ~~14.15.~~ At all times material to this Complaint, Defendants maintained a  
17 substantial course of trade in or affecting commerce, as “commerce” is defined in  
18 Section 4 of the FTC Act, 15 U.S.C. § 44.

19 **DEFENDANTS’ BUSINESS ACTIVITIES**

20 ~~15.16.~~ Since at least 2011, Defendants have advertised, marketed, promoted,  
21 sold, and/or offered to sell mortgage assistance relief services. Defendants present  
22 themselves as experienced lawyers and law firms that include experienced  
23 litigators who would quickly, or without delay, file and actively pursue lawsuits  
24 against lenders on consumers’ behalf. Defendants target distressed homeowners,  
25 many of whom have fallen behind on their mortgage payments, and convince them  
26 to purchase legal services by telling them that they are likely to prevail in lawsuits  
27 against their lenders. Often Defendants tell consumers they will receive at least  
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1 \$75,000 by suing their lender. They then extract thousands of dollars in upfront  
2 fees. In return, they provide little or nothing.

3 **Defendants Target Vulnerable Homeowners With Mass Mailers Hawking**  
4 **Their Mortgage Assistance Relief Services**

5 ~~16.17.~~ Defendants prey on distressed homeowners, often identifying people  
6 who are at risk of foreclosure to send individualized marketing materials. These  
7 materials advertise mortgage assistance relief services, including mass joinder  
8 lawsuits to void mortgage notes and other actions to stop foreclosures.

9 ~~17.18.~~ One letter, sent to consumers around May 2012, says, “You may  
10 become a joined named plaintiff in a significant lawsuit that will seek, among other  
11 things, to void your note(s).”

12 ~~18.19.~~ Another letter, sent to consumers around August 2015, states,  
13 “Brookstone Law is preparing to sue the trustee assigned to foreclose on your  
14 property for wrongful foreclosure and demand that they immediately cancel your  
15 auction date.”

16 ~~19.20.~~ During the relevant time period, Defendants sent potential victims  
17 additional, similar letters.

18 ~~20.21.~~ Defendants’ marketing materials portray Defendants as legal  
19 practitioners with the resources and experience to successfully litigate complicated  
20 mass joinder cases. For example, in a May 2012 letter, Brookstone claimed that its  
21 “team of lawyers . . . has substantial experience in lender fraud and related claims.”  
22 It also claimed that “our team of experienced lawyers offers you a superior  
23 alternative for recovery.”

24 ~~21.22.~~ Defendants further promote their litigation experience by telling  
25 consumers “[i]t may be necessary to litigate your claims against your lender to get  
26 the help you need and our lawyers know how to do so.”  
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1       ~~22.23.~~ Defendants tell consumers that they can become a plaintiff in a  
2 significant litigation seeking “to void your note(s), to give you your home free and  
3 clear, and/or to award you relief and monetary damages.”

4       ~~23.24.~~ Defendants’ marketing materials urge homeowners to act quickly and  
5 call Defendants in order to preserve their legal options.

6       ~~24.25.~~ For example, the May 2012 letter reads, “You should act now!  
7 Waiting may eliminate or reduce the many options you have available.” The letter  
8 goes on to say, “We encourage you to take prompt action by contacting us before  
9 05/12/2012.”

10       ~~25.26.~~ Similarly, an August 2015 letter identifies a recent California  
11 Supreme Court decision and tells consumers, “**URGENT the above decision will**  
12 **NOT stop the sale of your home so you MUST contact us now . . . Your home**  
13 **will be sold at Auction unless you take immediate action.**” Further, below the  
14 letter emphasizes “*Scheduled Trustee Auction Date: 8/26/2015*”.

15       ~~26.27.~~ Both the May 2012 and August 2015 letters are individually tailored  
16 for specific consumers. For example, the May 2012 letter is addressed to the  
17 homeowner by name, and contains at the bottom a table with the homeowner’s  
18 name, a “Client Case ID#,” the homeowner’s total loan amount, the homeowner’s  
19 parcel ID, and the property zip code. The August 2015 letter is also addressed to  
20 the homeowner by name, followed by a “Client ID #.” The letter includes the  
21 name of the homeowner’s mortgage lender, followed by the homeowner’s name  
22 and address.

23       ~~27.28.~~ Nowhere in the May 2012 or August 2015 letters did Defendants  
24 include any of the following disclaimers:

- 25           A.     “You may stop doing business with us at any time. You may  
26                   accept or reject the offer of mortgage assistance we obtain from  
27                   your lender [or servicer]. If you reject the offer, you do not  
28                   have to pay us. If you accept the offer, you will have to pay us



1 [amount or method for calculating the amount] for our  
2 services”;

3 B. “[Brookstone or Advantis] is not associated with the  
4 government, and our service is not approved by the government  
5 or your lender”; or

6 C. “Even if you accept this offer and use our service, your lender  
7 may not agree to change your loan.”

8 ~~28.29.~~ Defendants likewise did not include such disclaimers in the other,  
9 similar letters that they sent to homeowners.

10 ~~29.30.~~ In addition to consumer-specific communications, Defendants also  
11 solicited business from distressed homeowners through websites advertising  
12 Brookstone and Advantis. [www.brookstonelaw.com](http://www.brookstonelaw.com), [www.advantislaw.com](http://www.advantislaw.com).

13 ~~30.31.~~ For example, the Brookstone website trumpets its experience, stating  
14 “This is an important announcement for anyone in America who currently is in  
15 danger of losing their home due to foreclosure or other related action of their  
16 lender. There is help available for you now. Brookstone Law has a team of  
17 experienced litigation attorneys that can help people victimized by violations  
18 where banks, loan servicers, or others have taken advantage of honest  
19 homeowners.”

20 ~~31.32.~~ Although purportedly separate law firms, both Brookstone and  
21 Advantis advertise the same services on their websites, in many instances using  
22 identical language.

23 ~~32.33.~~ Both the Brookstone and Advantis websites use identical language in  
24 describing their real estate legal services, each claiming: “Every transaction in the  
25 world of real estate is essentially a contract negotiation and a business transaction.  
26 At the same time there is often a strong element of emotion involved in real estate  
27 ownership and possession. . . . We proceed with decisiveness while exercising  
28

1 caution as necessary to avoid litigation and resolve disputes in the most  
2 expeditious, beneficial way for our clients.”

3 ~~33~~.34. Both the Brookstone and Advantis websites tout the mass joinder suit  
4 *Wright v. Bank of America* as their own. Both websites use the same description  
5 for the case: “This lawsuit arises from: (1) Defendants’ deception in inducing  
6 Plaintiffs to enter into mortgages from 2003 through 2008 with the Countrywide  
7 Defendants; (2) Defendants’ breach of Plaintiffs’ Constitutionally and statutorily  
8 protected rights of privacy; and (3) Defendants’ continuing tortious conduct  
9 intended to deprive Plaintiffs of their rights and remedies for the foregoing acts.”

10 ~~34~~.35. Nowhere on their websites did Defendants include any of the  
11 following disclaimers:

- 12 A. “[Brookstone or Advantis] is not associated with the  
13 government, and our service is not approved by the government  
14 or your lender”; or  
15 B. “Even if you accept this offer and use our service, your lender  
16 may not agree to change your loan.”

17 ~~35~~.36. In all of these communications, Defendants encouraged homeowners  
18 to contact them through one of their toll-free numbers.

19 **When Consumers Respond to the Mass Mailers, Defendants Promise**  
20 **Consumers Lawsuits and Favorable Results**

21 ~~36~~.37. Once homeowners call Defendants, sales representatives convince  
22 them that they are signing up for lawsuits, and that by so doing they will achieve  
23 favorable results.

24 ~~37~~.38. Defendants’ main products are “mass joinder” lawsuits against the  
25 homeowners’ mortgage lender. These lawsuits join dozens, or even hundreds, of  
26 individual plaintiffs in a single action against a particular lender. These are not  
27 class action lawsuits. Each individual plaintiff’s claim must be separately proven  
28 and, in the event of a trial, each individual plaintiff would have a separate trial.

1 For example, Defendants filed *Wright v. Bank of America* on behalf of over 900  
2 plaintiffs asserting unique claims. As alleged, they share some factual overlap,  
3 such as the alleged fraud on the market to drive up home prices, but do not share  
4 any other particulars that would need to be proven for a specific plaintiff to prevail.  
5 Defendants filed similar suits against a number of other banks, including  
6 CitiGroup, JP Morgan Chase, Wells Fargo, Ally Bank, OneWest Bank, and Ocwen  
7 Financial Corporation.

8 ~~38.39.~~ On numerous occasions, Defendants presented these lawsuits as,  
9 among other things, ways to delay foreclosures, negotiate loan modifications, or  
10 obtain forbearance on mortgage payments. For example, one consumer was told  
11 that because his claim was worth \$75,000 the bank would seek to renegotiate the  
12 loan amount.

13 ~~39.40.~~ Defendants' offers include unsupported assessments about the  
14 likelihood of success. Such assessments start with a homeowner's very first  
15 conversation with one of Defendants' telemarketers—non-lawyers charged with  
16 collecting the homeowner's information.

17 ~~40.41.~~ For example, one of Defendants' telemarketers told an undercover  
18 FTC investigator, during his initial call, that Brookstone could stop a foreclosure  
19 and renegotiate his loan to lower his monthly payments, even though the  
20 investigator did not provide any information about his house, the size of his  
21 mortgage, or his income.

22 ~~41.42.~~ Once telemarketers convince homeowners to come into Defendants'  
23 offices for in-person meetings, Defendants give the homeowners further  
24 assessments of their likelihood of success in the mass joinder cases.

25 ~~42.43.~~ During these initial meetings, Defendants tell consumers they need to  
26 perform a "legal analysis" to evaluate the viability of a claim against their  
27 mortgage holder. Consumers pay Defendants \$895, sometimes more, before  
28 Defendants' conduct their "legal analysis."

1       ~~43.44~~. On numerous occasions, Defendants then provide homeowners a  
2 “legal analysis,” stating that the fraud in their mortgage paperwork was obvious.  
3 Defendants told such homeowners that they were likely, or even certain, to prevail,  
4 if they retained the Defendants for a mass joinder suit against their lender. On  
5 numerous occasions, Defendants told homeowners that they would recover “at  
6 least \$75,000.”

7       ~~44.45~~. Additionally, Defendants told consumers they would quickly file a  
8 lawsuit and actively litigate on their behalf.

### 9                   **Defendants Request and Receive Advance Fees**

10       ~~45.46~~. Based on their promises, Defendants request and receive advance  
11 fees—payments that come before homeowners receive any benefit from their  
12 services—in two steps.

13       ~~46.47~~. First, as described above in paragraph ~~43.2~~, consumers pay an  
14 advance fee for the “legal analysis.”

15       ~~47.48~~. Second, Defendants’ “legal analysis” almost invariably results in  
16 Defendants telling consumers they have a really good case against their lender.  
17 Defendants then charge homeowners thousands of dollars for the opportunity to  
18 sign up for one of their mass joinder lawsuits.

19       ~~48.49~~. Although Defendants’ mass joinder litigations are purportedly  
20 “contingency fee” actions, Defendants collect both upfront fees and continuing  
21 payments from consumers. Defendants charge homeowners a recurring monthly  
22 fee to maintain their status as named plaintiffs.

23       ~~49.50~~. Defendants received at least \$15 million through 2014.

24       ~~50.51~~. Defendants do not deposit payments in client trust accounts, as  
25 required by law. Instead, they treat these funds as if they were fully earned, and  
26 use them for expenses as they receive them.

1           ~~51.52.~~ On numerous occasions, homeowners asked for refunds for amounts  
2 paid because they had received no service or benefit. On many of these occasions,  
3 Defendants refused homeowners' requests.

4           **Defendants Do Not Deliver Promised Outcomes or Quickly File Lawsuits**

5           ~~52.53.~~ Defendants' promise to quickly file lawsuits that will provide  
6 homeowners substantial monetary awards, lower mortgages, or voided notes have  
7 no reasonable relationship with any actual services they provide or outcomes they  
8 achieve for homeowners.

9           ~~53.54.~~ Defendants have not won a single mass joinder lawsuit on the merits.

10           ~~54.55.~~ Far from the certainty of winning "at least \$75,000," and possibly  
11 obtaining their homes free and clear of any mortgage, Defendants did not even  
12 seek such relief. In fact, as early as February 2012, Defendants tried to avoid  
13 federal court jurisdiction by arguing on their clients' behalf that they were, in fact,  
14 **not** seeking to void their clients' notes or obtain their clients' homes free and clear.  
15 *See* Pltf. Reply in Support of Motion to Remand, at 15-16, (DE 24), *Potter v. JP*  
16 *Morgan Chase Bank N.A.*, No. 11-10255 (C.D. Cal.) ("Plaintiffs do not seek to set  
17 aside Defendants' loans, nor rescind them but rather seek loss of equity damages  
18 resulting from Defendants' wrongful conduct.")

19           ~~55.56.~~ Eleven of the twelve Brookstone mass joinder cases filed before  
20 2016 have been dismissed. In March and April 2016 defendants filed three more  
21 mass joinder cases.

22           ~~56.57.~~ Brookstone's mass joinder cases have been dismissed for varied  
23 reasons, including for lack of prosecution, for misjoinder, on demurrer, and on  
24 voluntary dismissal. Of their original cases, the only surviving case is *Wright v.*  
25 *Bank of America*, No. 30-2011-449059 (Sup. Ct. Cal. Orange County). No court  
26 has spoken to the merits of the claims in that lawsuit. Initially dismissed for  
27 misjoinder, the California Court of Appeal allowed it to proceed in spite of its  
28 "desultory and scattered allegations," but required Defendants to replead the

1 Complaint into an intelligible pleading. *Wright v. Bank of America*, 232 Cal. App.  
2 4th 238, 254 (2014), *review denied* (Mar. 25, 2015). It then took Defendants  
3 almost ten months to file their fourth amended complaint in January 2016;  
4 Brookstone has now told the court it will again need to amend its complaint.  
5 Brookstone Nevada has filed only one mass joinder lawsuit, which was removed to  
6 federal court and dismissed for misjoinder. *Garner v. Bank of America*, No. 12-  
7 02076, D.E. 35 (D. Nev. May 29, 2013).

8 ~~57-58~~. Defendants do not take affirmative steps to prosecute these cases.  
9 Instead, they do minimal work, only sometimes responding to demurrers, while  
10 filing amended complaints adding additional consumers they have signed up.  
11 They have not pursued discovery in their cases, either not seeking discovery or  
12 agreeing to stays of discovery. In several instances they voluntarily dismissed the  
13 cases without prejudice and have not since refiled the cases to pursue their paying  
14 clients' claims.

15 ~~58-59~~. Defendants do not perform the tasks that they promise their clients  
16 they will undertake. For example, on numerous occasions, Defendants told  
17 homeowners that they would add them as plaintiffs to mass joinder cases, but  
18 never did so. On numerous other occasions, Defendants tell homeowners they  
19 will be added to lawsuits shortly, but months pass before they are added.

20 ~~59-60~~. Defendants do not communicate with clients or respond to client  
21 requests about how they are litigating the clients' case. Numerous clients  
22 repeatedly asked for updates regarding how their case was proceeding and received  
23 no response whatsoever. When Brookstone vacated its offices in late 2014,  
24 Defendants refused to tell clients the location of its new office; then, when pressed,  
25 lied to its clients about where its offices were located.

26 ~~60-61~~. Defendants do not tell clients that their lawsuits have been dismissed  
27 and continue collecting monthly fees. Often clients determine on their own that  
28 their cases have been dismissed.

1           ~~61.62.~~In August 2014, the California Bar court found Defendant Torchia  
2 had violated his ethical duties to his clients with respect to provision of mortgage-  
3 related services, including 16 counts of misconduct, such as failure to perform  
4 legal services with competence, failure to maintain records of client funds and  
5 render appropriate accounts to the client, failure to return unearned funds, and  
6 failure to return client papers/property.

7           ~~62.63.~~During his ethics trial, Torchia testified he did not have the experience  
8 to be lead counsel on the mass joinder cases. He further conceded that Brookstone  
9 failed to provide the most basic elements of legal representation, including  
10 properly communicating with clients, adequately explaining what consumers  
11 should expect from the representation, and returning unearned fees.

12           ~~63.64.~~Confirming Torchia’s own admissions, the California Bar court found  
13 that Defendant Torchia “lacked and continue[d] to lack the law-office-management  
14 skills and **basic knowledge of mortgage lending law and bankruptcy law**  
15 necessary to adequately and properly represent some 4,000 mortgage loan clients.”  
16 (Emphasis supplied.)

17           ~~64.65.~~Similarly, Tarkowski does not have any relevant experience, let alone  
18 experience litigating complicated fraud cases on behalf of several hundred separate  
19 plaintiffs.

20           ~~65.66.~~Contrary to Defendants’ claims that they know how to obtain the  
21 promised results and have the ability to pursue these claims, they in fact do not  
22 have any attorneys on staff with the relevant experience or sufficient resources to  
23 simultaneously litigate hundreds or thousands of fraud cases.

24           ~~66.67.~~Defendants operate from an office with only one full-time attorney  
25 with support from no more than a handful of paralegals.

26                                   **VIOLATIONS OF THE FTC ACT**

27           ~~67.68.~~Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or  
28 deceptive acts or practices in or affecting commerce.”





1 ~~71.~~72. Therefore, Defendants' representations as set forth in Paragraph 70  
2 ~~to off~~ this Complaint are false and misleading, and constitute a deceptive practice  
3 in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

4 **VIOLATIONS OF THE MARS RULE**

5 ~~72.~~73. In 2009, Congress directed the FTC to prescribe rules prohibiting  
6 unfair or deceptive acts or practices with respect to mortgage loans. Omnibus Act,  
7 § 626, 123 Stat. at 678, as clarified by Credit Card Act, § 511, 123 Stat. at 1763-  
8 64. Pursuant to that direction, the FTC promulgated the MARS Rule, 16 C.F.R.  
9 Part 322, all but one of the provisions of which became effective on December 29,  
10 2010. The remaining provision, Section 322.5, became effective on January 31,  
11 2011. The Dodd-Frank Act, § 1097, 124 Stat. at 2102-03, 12 U.S.C. § 5538,  
12 transferred rulemaking authority over the MARS Rule to the Consumer Financial  
13 Protection Bureau, which recodified the Rule as 12 C.F.R. Part 1015 effective  
14 December 30, 2011, and designated it "Regulation O." The FTC retains authority  
15 to enforce the MARS Rule pursuant to Dodd-Frank Act § 1097, 12 U.S.C. § 5538.

16 ~~73.~~74. The MARS Rule and Regulation O define "mortgage assistance relief  
17 service provider" as "any person that provides, offers to provide, or arranges for  
18 others to provide, any mortgage assistance relief service" other than the dwelling  
19 loan holder, the servicer of a dwelling loan, or any agent or contractor of such  
20 individual or entity. 16 C.F.R. § 322.2, recodified as 12 C.F.R. § 1015.2.

21 ~~74.~~75. Defendants are "mortgage assistance relief service provider[s]"  
22 engaged in the provision of "mortgage assistance relief services" as those terms are  
23 defined in the MARS Rule and Regulation O, 16 C.F.R. § 322.2, recodified as 12  
24 C.F.R. § 1015.2.

25 ~~75.~~76. The MARS Rule and Regulation O prohibit any mortgage assistance  
26 relief service provider from misrepresenting, expressly or by implication, the  
27 likelihood of negotiating, obtaining, or arranging any represented service or result.  
28 16 C.F.R. § 322.3(b)(1), recodified as 12 C.F.R. § 1015.3(b)(1).

1       ~~76.77.~~ The MARS Rule and Regulation O prohibit any mortgage assistance  
2 relief service provider from requesting or receiving payment of any fee or other  
3 consideration until the consumer has executed a written agreement between the  
4 consumer and the consumer's loan holder or servicer that incorporates the offer  
5 that the provider obtained from the loan holder or servicer. 16 C.F.R. § 322.5(a),  
6 recodified as 12 C.F.R. § 1015.5(a).

7       ~~77.78.~~ The MARS Rule and Regulation O require any mortgage assistance  
8 relief service provider to place a statement in every general commercial  
9 communication disclosing that (i) the provider is not associated with the  
10 government and its service is not approved by the government or any lender, and  
11 (ii) in certain cases, a statement disclosing that the lender may not agree to modify  
12 a loan, even if the consumer uses the provider's service. 16 C.F.R. §§ 322.4(a)(1)-  
13 (2), recodified as 12 C.F.R. §§ 1015.4(a)(1)-(2).

14       ~~78.79.~~ The MARS Rule and Regulation O require any mortgage assistance  
15 relief service provider to place a statement in every consumer-specific commercial  
16 communication (i) confirming that the consumer may stop doing business with the  
17 provider or reject an offer of mortgage assistance without having to pay for the  
18 services, (ii) disclosing that the provider is not associated with the government and  
19 its service is not approved by the government or any lender, and (iii) in certain  
20 cases, a statement disclosing that the lender may not agree to modify a loan, even if  
21 the consumer uses the provider's service. 16 C.F.R. §§ 322.4(b)(1)-(3), recodified  
22 as 12 C.F.R. §§ 1015.4(b)(1)-(3).

23       ~~79.80.~~ Pursuant to the Omnibus Act, § 626, 123 Stat. at 678, as clarified by  
24 the Credit Card Act, § 511, 123 Stat. at 1763-64 and amended by the Dodd-Frank  
25 Act, § 1097, 124 Stat. at 2102-03, 12 U.S.C. § 5538, and pursuant to Section  
26 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the MARS Rule or  
27 Regulation O constitutes an unfair or deceptive act or practice in or affecting  
28 commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

1 **COUNT II**

2 ~~80.81.~~ In numerous instances, in connection with the offering or provision of  
3 mortgage assistance relief services, Defendants, either acting alone or in concert  
4 with others, ask for, or receive, payment before consumers have executed a written  
5 agreement with their loan holder or servicer that incorporates the offer obtained by  
6 Defendants, in violation of the MARS Rule and Regulation O, 16 C.F.R. §  
7 322.5(a), 12 C.F.R. § 1015.5(a).

8 **COUNT III**

9 ~~81.82.~~ In numerous instances, in connection with the offering or provision of  
10 mortgage assistance relief services, Defendants, in violation of the MARS Rule  
11 and Regulation O, 16 C.F.R. § 322.3(b), 12 C.F.R. § 1015.3(b), either acting alone  
12 or in concert with others, misrepresent, expressly or by implication, material  
13 aspects of their services, including but not limited to:

- 14 A. Defendants' likelihood of obtaining relief for consumers, such  
15 as consumers' homes free and clear;  
16 B. Defendants would seek to void consumers' mortgages.

17 **COUNT IV**

18 ~~82.83.~~ In numerous instances, in connection with the offering or provision of  
19 mortgage assistance relief services, Defendants, either acting alone or in concert  
20 with others, fail to make the following disclosures:

- 21 A. In general commercial communications:  
22 i. "[Brookstone or Advantis] is not associated with the  
23 government, and our service is not approved by the  
24 government or your lender," in violation of the MARS  
25 Rule and Regulation O, 16 C.F.R. § 322.4(a)(1), 12  
26 C.F.R. § 1015.4(a)(1); and  
27 ii. "Even if you accept this offer and use our service, your  
28 lender may not agree to change your loan," in violation

1 of the MARS Rule and Regulation O, 16 C.F.R. §  
2 322.4(a)(2), 12 C.F.R. § 1015.4(a)(2).

3 B. In consumer-specific commercial communications:

4 iii. “You may stop doing business with us at any time. You  
5 may accept or reject the offer of mortgage assistance we  
6 obtain from your lender [or servicer]. If you reject the  
7 offer, you do not have to pay us. If you accept the offer,  
8 you will have to pay us [amount or method for  
9 calculating the amount] for our services,” in violation of  
10 the MARS Rule and Regulation O, 16 C.F.R. §  
11 322.4(b)(1), 12 C.F.R. § 1015.4(b)(1);

12 iv. “[Brookstone or Advantis] is not associated with the  
13 government, and our service is not approved by the  
14 government or your lender,” in violation of the MARS  
15 Rule and Regulation O, 16 C.F.R. § 322.4(b)(2), 12  
16 C.F.R. § 1015.4(b)(2); and

17 v. “Even if you accept this offer and use our service, your  
18 lender may not agree to change your loan,” in violation  
19 of the MARS Rule and Regulation O, 16 C.F.R. §  
20 322.4(b)(3), 12 C.F.R. § 1015.4(b)(3).

21 **CONSUMER INJURY**

22 ~~83.84.~~ Consumers have suffered and will continue to suffer substantial injury  
23 as a result of Defendants’ violations of the FTC Act and the MARS Rule, including  
24 payment of thousands of dollars to Defendants. In addition, Defendants have been  
25 unjustly enriched as a result of their unlawful acts or practices. Absent injunctive  
26 relief by this Court, Defendants are likely to continue to injure consumers, reap  
27 unjust enrichment, and harm the public interest.  
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- C. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants’ violations of the FTC Act and the MARS Rule, including but not limited to rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies;
- D. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Respectfully submitted,  
 DAVID C. SHONKA  
 Acting General Counsel

Dated: July 5, 2016

/s/ Benjamin Theisman

~~Dated: \_\_\_\_\_~~

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