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AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CAPITOL WEST APPRAISALS, LLC, on
behalf of itself and all others similarly situated,

Plaintiff,

v.

COUNTRYWIDE FINANCIAL CORP.;
COUNTRYWIDE BANK, N.A.;
COUNTRYWIDE HOME LOANS, INC.;
LANDSAFE, INC., and LANDSAFE
APPRAISAL SERVICES, INC.

Defendants.

No. **C08-1520** RAJ

CLASS ACTION COMPLAINT

Jury Trial Demanded

CLASS ACTION COMPLAINT
Case No.



HAGENS BERMAN
SOBOL SHAPIRO LLP

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1 Plaintiff Capitol West Appraisals (“Plaintiff”), by and through its attorneys, on behalf of
2 themselves and all others similarly situated, bring this Class Action Complaint against
3 Defendants and allege, based upon personal knowledge as to itself and its own acts, and as to all
4 other matters upon information and belief, as follows:

5 **I. NATURE OF THE ACTION**

6 1. In this era of widespread mortgage loan defaults and home foreclosures, the
7 independence and integrity of the real estate appraisers who determine the value of home loan
8 collateral is vitally important. Appraisals are intended to provide borrowers and lenders with an
9 independent and accurate assessment of the true value of the property in question.

10 2. Indeed, federal and state laws exist to protect the integrity of the appraisal process
11 so that appraisers can provide borrowers and lenders with an independent and accurate
12 assessment of the value of a home. Lenders are prohibited from pressuring appraisers into
13 compromising their independence and producing a report that is not based on the appraiser’s
14 objective opinion.

15 3. Countrywide, the largest mortgage lender in the United States, has engaged in a
16 practice of pressuring and intimidating appraisers into using appraisal techniques that meet
17 Countrywide’s business objectives even if the use of such appraisal technique is improper and in
18 violation of industry standards. If appraisers fail to “play ball” as Countrywide demands,
19 Countrywide places the appraiser on a “Field Review List.” Being placed on the Field Review
20 List is tantamount to being “blacklisted,” as Countrywide will no longer accept appraisals from
21 persons and companies appearing on this list unless the appraisals are accompanied by an
22 appraisal from another appraiser. Because loan mortgage brokers, which hire the appraisers, will
23 not pay for two appraisals, being placed on the Field Review List means that the appraiser will
24 no longer be retained to review properties on which Countrywide is the lender. As a practical
25 result, mortgage brokers do not know if Countrywide will be the eventual lender on a property so
26 mortgage brokers simply will not use blacklisted appraisers period. Given Countrywide’s



1 enormous size and clout in the mortgage market, appraisers appearing on the Field Review List
2 lose substantial revenue – all because they refused to compromise their integrity and violate their
3 industry standards at Countrywide’s insistence.

4 4. Countrywide’s conduct violates, among other laws, the federal Racketeering
5 Influenced and Corrupt Practices Act. Countrywide has caused substantial damage to hundreds
6 if not thousands of appraisers across the United States, in addition to distorting real estate prices
7 in the marketplace. Therefore, this suit is necessary to stop Countrywide’s unlawful behavior
8 and to compensate appraisers that were subject to Countrywide’s unlawful scheme.

9 **II. JURISDICTION AND VENUE**

10 5. This Court has subject-matter jurisdiction over this class action pursuant to the
11 Class Action Fairness Act of 2005, which confers federal jurisdiction over class actions where,
12 as here, “any member of a class of plaintiffs is a citizen of a State different from any
13 Defendants” and the aggregated amount in controversy exceeds five million dollars
14 (\$5,000,000). *See* 28 U.S.C. §§ 1332(d)(2) and (6). This Court has personal jurisdiction over
15 the parties because Plaintiff submits to the jurisdiction of the Court and Defendants
16 systematically and continually conduct business throughout the State of Washington.

17 6. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(b) and (c). Many of
18 the acts and transactions giving rise to the violations of law complained of herein occurred in this
19 District.

20 7. Much of Defendants’ activities and operations have been performed in this
21 District, and Defendants maintain many offices in this District, including at the following
22 locations:

| | | |
|--|---|--|
| 23 810 Alabama Street 24 Bellingham, WA 98225 | 221 A Street, Ste #4 Eastsound, WA 98245 | 2210 Riverside Drive Suites 110&120 Mt. Vernon, WA 98273 |
| 25 1 Front Street, Ste E-2 26 Friday Harbor, WA 98250 | Bellevue Place 10500 NE 8th St, Ste 1760 Bellevue, WA 98004 | 11555 SE 8th St, Ste 101 Bellevue, WA 98004 |



| | | |
|--|---|--|
| 200 112th Ave NE Suite 210 Bellevue, WA 98004 | 1645 140th Ave NE, Ste A3 Bellevue, WA 98005 | Greentree Plaza 305 SE Everett Mall Wy #21 Everett, WA 98208 |
| 3400 188th St., Suite 101 Lynnwood, WA 98037 | The Clocktower at Town Center 15021 Main St, Ste C Mill Creek, WA 98012 | 8525 120th Ave NE Kirkland, WA 98275 |
| Eastlake Center 2825 Eastlake Ave E Suite 305 Seattle, WA 98102 | The Western Creek Building 5001 25th Ave NE, Ste 201 Seattle, WA 98105 | Westwood Village 2515 SW Trenton Street Suite 103 Seattle, WA 98126 |
| 1200 Third Avenue Suite 100 Seattle, WA 98101 | Westgate North Shopping Center 2631 N Pearl St Tacoma, WA 98407 | Lakewood Pavillion 5700 100th St SW, Ste550 Lakewood, WA 98499 |
| Rainier Professional Plaza 18209 ST Hwy 410 E, #302 Bonney Lake, WA 98391 | 32001 32nd Avenue S Suite 110 Federal Way, WA 98001 | Cooper Point Pavilion 1520 Cooper Pt Rd SW #350 Olympia, WA 98502 |
| 5500 Olympic Drive Suite H-103 Gig Harbor, WA 98335 | Vancouvercenter North Office Tower 700 Washington St Ste 201 Vancouver, WA 98660 | 2103 NE 129th St, Suite 201 Vancouver, WA 98686 |
| 350 North East 4th Ave Camas, WA 98607 | Triangle Landing 1208 Washington Way #140,150 Longview, WA 98632 | |

III. THE PARTIES

8. Plaintiff Capitol West Appraisals, LLC ("Capitol West") is an Idaho limited liability company with its principal place of business at Boise, Idaho. Capitol West is in the business of providing real estate appraisals to mortgage brokers and mortgage lenders.

9. Defendant Countrywide Financial Corp. ("Countrywide Financial") is a Delaware corporation headquartered at 4500 Park Granada, Calabasas, California 91302. Countrywide Financial is engaged in mortgage lending and other real estate finance-related businesses, including mortgage banking, banking and mortgage warehouse lending, dealing in securities and insurance underwriting.



1 **B. The Appraisal Business**

2 17. An appraiser is most commonly retained by a mortgage broker or mortgage lender
3 in order to value the property that will be used as the collateral to make sure that the property's
4 value actually reflects the estimated opinion of market value or refinance value. This helps
5 ensure that the loan is adequately collateralized in case the borrower defaults.

6 18. Among other things, an appraiser typically performs a physical inspection of the
7 property and takes inventory of the number of rooms and square footage and assesses the overall
8 condition of the property. The appraiser also reviews recent property sales that the appraiser
9 believes are comparable to the property being studied, and these "comps" serve as value
10 benchmarks with which to compare the proposed purchase price for the property.

11 19. After the appraiser has concluded his or her review, the appraiser typically
12 provides the mortgage broker or lender with a report that either estimates the value of the
13 property or confirms or challenges the sale price agreed to between the buyer and the seller.

14 20. Appraisers either work "in house" as part of the broker's or lender's own
15 operations or work as independent contractors. In the latter case, the appraiser builds a book of
16 business by servicing as many mortgage brokers and lenders in a given geographic region as
17 possible.

18 21. These brokers and lenders are the "lifeblood" of the appraiser's revenue. Without
19 their business, an appraiser cannot operate.

20 **C. Federal Law Requires Appraisal Independence**

21 22. Because of the importance of appraisals in the home lending market, state and
22 federal statutes and regulations require that appraisals be accurate and independent. The
23 Uniform Standards of Professional Appraisal Practice ("USPAP") require appraisers to conduct
24 their appraisals independently: "An appraiser must perform assignments with impartiality,
25 objectivity, and independence, and without accommodation of personal interests. In appraisal
26 practice, an appraiser must not perform as an advocate for any party or issue." USPAP Ethics



1 Rule (Conduct). USPAP rules also provide that “[a]n appraiser must not accept an assignment
2 that includes the reporting of predetermined opinions and conclusions.” In addition, each
3 appraisal report must contain a certification signed by the appraiser, stating that his or her
4 compensation for completing the assignment is not contingent upon the development or reporting
5 of a predetermined value or direction in value that favors the cause of the client.

6 23. USPAP is incorporated into federal law by 12 C.F.R. § 34.44, and federal law sets
7 independence standards for appraisers involved in federally-regulated transactions. *See* 12
8 U.S.C. §§ 3331, *et seq.* The Code of Federal Regulations provides that an in-house or “staff”
9 appraiser at a bank “must be independent of the lending, investment, and collection functions and
10 not involved, except as an appraiser, in the federally related transaction, and have no direct or
11 indirect interest, financial or otherwise, in the property.” 12 C.F.R. § 34.45. For appraisers who
12 are independent contractors or “fee” appraisers, the regulation states that “the appraiser shall be
13 engaged directly by the regulated institution or its agent, and have no direct or indirect interest,
14 financial or otherwise, in the property transaction.” 12 C.F.R. § 34.45.

15 24. In 2005, federal regulators, including the Office of Thrift Supervision (“OTS”),
16 published “Frequently Asked Questions on the Appraisal Regulations and the Interagency
17 Statement on Independent Appraisal and Evaluation Functions.” With regard to appraisal
18 independence, the document highlighted the importance of independence and condemned
19 attempts to interfere therewith:

20 3. *Who should be considered the loan production staff for*
21 *purposes of achieving appraiser independence? Could*
loan production staff select an appraiser?

22 *Answer:* The loan production staff consists of those
23 responsible for generating loan volume or
24 approving loans, as well as their subordinates. This
25 would include any employee whose compensation
26 is based on loan volume. Employees responsible
for the credit administration function or credit risk
management are not considered loan production
staff. Loan production staff should not select
appraisers.



1 * * *

- 2 5. *When selecting residential appraisers, may loan production*
3 *staff use a revolving pre-approved appraiser list, provided*
4 *the list is not under their control?*

5 *Answer:* Yes, loan production staff may use a revolving,
6 board-approved list to select a residential appraiser,
7 provided the development and maintenance of the
8 list is not under their control. Staff responsible for
9 the development and maintenance of the list should
10 be independent of the loan production process. . . .
11 Further, there should be periodic internal review of
12 the appraiser selection process to ensure that
13 appropriate procedures are being followed and that
14 controls exist to ensure independence.

15 **D. The Incentives for Mortgage Brokers and Lenders to Pressure Appraisers**

16 25. Traditionally, mortgage lenders held a substantial amount of the mortgage loans
17 that they originated, which incentivized them to ensure that loans were adequately collateralized.

18 26. Over time, the mortgage industry landscape changed. Rather than holding the
19 mortgage loans, lenders now regularly sell them in the financial markets. The loans are then
20 pooled together, securitized and sold to institutions and investors as mortgage-backed securities.
21 Today, the vast majority of mortgage loans are sold, leaving the original lender holding far fewer
22 mortgages in its portfolio. The money that the lender receives for selling its mortgage loans is
23 then used to finance new mortgages, thereby increasing the lender's profits and aiding its stock
24 price.

25 27. This industry change has transformed incentives in such a manner that lenders
26 have often been less vigilant in accepting risky loans since the risk is quickly transferred to the
purchasers of the loans. The lender's interest in ensuring the accuracy of the appraisal backing
the loan is diminished. And because lenders' profits are determined by the quantity of loans that
they successfully close, and not the quality of those loans, the lender has an incentive to pressure
appraisers to reach values that will allow the loan to close – without regard to whether the
appraisal accurately reflects the home's actual value.



1 28. Independent mortgage brokers also make more money by closing a higher volume
2 of loans. Consequently, brokers have great incentive to make the loan documentation process
3 move as quickly and efficiently as possible and meet whatever demands and requirements that
4 lenders place on them. An independent mortgage broker is not tied to one particular lender. It
5 typically has relationships with multiple lenders in order to have as many options as possible to
6 service clients.

7 **E. Countrywide's Wrongful Conduct**

8 29. Countrywide is one of the largest mortgage-lending companies in the United
9 States and one of the largest originators of home loans. It is estimated that one out of every four
10 loans in the United States originates with Countrywide or is purchased by them wholesale.

11 30. Countrywide has engaged in a pattern and practice of pressuring appraisers to
12 confirm that the sales price in the transaction reflects that actual value of the property. In other
13 words, Countrywide is more interested in having the property pass appraisal than it is in
14 determine whether an appraisal is fair and accurate and prepared in accordance with industry
15 standards. If an appraiser does not "play ball" and produce a report affirming the property value
16 that Countrywide expects or using the appraisal it wants, it places the appraiser on its "Field
17 Review List."

18 31. The Field Review List is a Countrywide database containing the names of
19 appraisers whose reports Countrywide will not accept unless the mortgage broker also submits a
20 report from a second appraiser. The practical effect of being placed on the Field Review List is
21 to be "blacklisted:" no mortgage broker will hire an appraiser appearing on the Field Review
22 List to review a property sale in which Countrywide will be the lender because the broker simply
23 will not pay to have two appraisals done. Instead, the broker will simply retain another appraiser
24 who is not on the Field Review List.

25 32. As of August 2008, more than 2,000 appraisers appeared on the Field Review
26 List. Countrywide has used the Field Review List for more than four years.



1 33. When someone on the Countrywide “do not use” database comes up on an
2 appraisal submitted to Countrywide, the appraisal is automatically flagged for a “field review” or
3 “2055” form. A field review is an appraisal that reviews the original appraisal. As a matter of
4 course, if Countrywide flags an appraisal, all of these field reviews go to LandSafe. The “field
5 review” is a code or message for LandSafe to shoot holes in the original appraisal and appraise
6 the property lower or pursuant to Countrywide’s wishes. By this scheme, LandSafe works with
7 Countrywide to enforce its “do not use” list. This happened to Plaintiff, but when the same value
8 was turned in on the same property by another appraiser in Plaintiff’s office under a different
9 company name, the same value that had been attacked by LandSafe was accepted by the
10 mortgage broker without a field review. And, despite the fact that LandSafe used improper
11 appraisal practices in order to attack one of the Plaintiff’s appraisals, including misstating
12 distance of alleged comparables from the subject property.

13 34. The chilling effect of the blacklist also affects loan appraisals which may be in the
14 future submitted to Countrywide. That point effectually taints the appraisals for virtually every
15 loan application that originates with a mortgage broker. Because Countrywide is so huge, all or
16 a substantial portion of these loans may wind up being submitted to Countrywide. Since the
17 broker can’t rule out that Countrywide may be the ultimate lender, and since they know from the
18 blacklist that a field review will be required if they choose a blacklisted appraiser, they won’t use
19 Plaintiff or others on the blacklist for the appraisal because there exists the real possibility of the
20 requirement of a field review, coupled with doubling the appraisal cost to the broker’s applicant
21 and the working knowledge that LandSafe will knock down the appraised valuation, thereby
22 inhibiting approval of the loan.

23 35. LandSafe is a “captive” puppet of Countrywide, either by virtue of ownership or
24 economic power as its largest client, such that LandSafe knows what Countrywide wants to
25 accomplish with its blacklist and facilitates Countrywide’s scheme by attacking the appraisals of
26 persons on the list and undercutting valuations, whether warranted or not.



1 36. Plaintiff Capitol West has been subjected to the Countrywide scheme.
2 Countrywide loan officers pressured Capitol West to increase valuations or vary from the
3 USPAP on appraisals that Capitol West provided for three separate loan transactions.

4 37. Capitol West refused to succumb to Countrywide's pressure to compromise its
5 integrity and independence and refused to commit fraud and violate federal and state laws. Its
6 reward? Countrywide placed Capitol West on the Field Review List. Capitol West learned this
7 from a Countrywide employee.

8 **F. The Impact of Countrywide's Unlawful Conduct**

9 38. Any appraiser placed on Countrywide's Field Review List will lose substantial
10 revenue. Indeed, many appraisers on Countrywide's Field Review List struggle to stay in
11 business.

12 39. Since appearing on the Field Review List, Plaintiff Capitol West's business has
13 declined and revenues have plummeted. Indeed, Capitol West is now losing \$8,000 in revenue
14 per month as a direct and proximate result of being placed on the Field Review List. An
15 employee of Countrywide has advised Capitol West that it will remain on the Field Review List
16 for at least a full year. The practical result of the blacklist is that mortgage brokers simply will
17 not use Plaintiff on many transactions because the broker does not know if Countrywide will be
18 the lender at the outset.

19 40. The impact goes beyond damage to Plaintiff and the proposed Class. Indeed,
20 Countrywide's actions denigrate the integrity of the appraisal process on a wide scale, as inflated
21 appraisals become "comparables" used in other appraisals, leading to layers of overvaluations
22 and distorting prices in the marketplace.

23 **V. CLASS ACTION ALLEGATIONS**

24 41. Plaintiff brings all claims herein as class claims pursuant to Rule 23 of the Federal
25 Rules of Civil Procedure. The requirements of subparts 23(a) and 23(b)(2), and (b)(3) are met
26 with respect to the Class defined below.



1 **A. Class Definition**

2 42. Plaintiff brings this action on behalf of himself and on behalf of all certified
3 appraisers nationwide who have been placed on the Countrywide Field Review List. Excluded
4 from the proposed Class are any individual or corporation employed or controlled by
5 Countrywide, and any person or entity related to it, and all governmental entities and any
6 appraiser who has been delisted by any regulatory authority.

7 **B. Numerosity**

8 43. The Class is so numerous that joinder of all members is impracticable. Class
9 members number in the thousands. The precise number of Class members and their addresses
10 are unknown to the Plaintiff, but can be obtained from Defendants' records.

11 **C. Commonality**

12 44. There are questions of law or fact common to the Class, including at least the
13 following:

14 (a) Whether Defendants created and maintained a Field Review List or
15 "Watch List" or "do not use" database;

16 (b) Whether Defendants pressured appraisers into producing appraisal reports
17 that misstated the value of the subject properties;

18 (c) Whether Defendants used the wires and mails to further the scheme;

19 (c) Whether Defendants violated RICO;

20 (d) Whether Defendants' wrongful conduct resulted in economic damage to
21 the Plaintiff and members of the Class, and the amount of said damages; and

22 (e) What relief should be imposed in favor of the Plaintiff and the Class.

23 **D. Typicality**

24 45. Plaintiff's claims are typical of the claims of the other members of the Class.

25 Plaintiff has the same interests in this matter as all other members of the Class, and its claims are
26



1 substantially identical to and typical of the claims of all members of the Class. Plaintiff does not
2 have interests antagonistic to or in conflict with those of the members of the Class.

3 **E. Adequacy**

4 46. Plaintiff is committed to pursuing this action and has retained competent counsel
5 experienced in class actions. Plaintiff will fairly and adequately represent the interests of the
6 Class members.

7 **F. The Prerequisites to Maintaining a Class Action for Injunctive Relief are Readily
8 Apparent**

9 47. The prerequisites to maintaining a class action for injunctive relief exist:

10 a. If injunctive relief is not granted, great harm and irreparable injury to
11 Plaintiff and the members of the Class will continue; and

12 b. Plaintiff and the members of the Class have no adequate remedy at law for
13 the injuries which are threatened to recur, in that, absent action from this Court, Defendants will
14 continue to violate RICO and cause damage.

15 48. The prosecution of separate actions by members of the Class would create a risk
16 of establishing incompatible standards of conduct for Defendants – for example, one court might
17 decide that the challenged actions are illegal and enjoin them, while another court might decide
18 that those same actions are not illegal. Individual actions may, as a practical matter, be
19 dispositive of the interests of the Class.

20 49. Defendants' actions are generally applicable to the Class as a whole, and Plaintiff
21 seeks, *inter alia*, equitable remedies with respect to the Class as a whole.

22 **G. Common Questions Predominate, and the Class Action Device Is Superior**

23 50. The common questions of law and fact enumerated above predominate over
24 questions affecting only individual members of the Class, and a class action is the superior
25 method for fair and efficient adjudication of the controversy. The likelihood that individual
26 members of the Class will prosecute separate actions is remote due to the time and expense



1 necessary to conduct such litigation. To Plaintiff's knowledge, no similar litigation is currently
2 pending by other members of the Class. Plaintiff's counsel, highly experienced in class actions,
3 foresee little difficulty in the management of this case as a class action.

4 **VI. FRAUDULENT CONCEALMENT; TOLLING; ESTOPPEL**

5 51. Any applicable statutes of limitations have been tolled by Defendants' illegal
6 practices. Defendants have fraudulently concealed from Plaintiff and the Class the truth about
7 the unlawful practices described herein, thereby tolling the running of applicable statutes of
8 limitation.

9 52. Plaintiff and the Class could not have reasonably discovered Defendants practices
10 as alleged herein earlier than they did.

11 53. Defendants are estopped from relying on any statute of limitations defense.

12 **VII. CAUSE OF ACTION**

13 **VIOLATION OF 18 U.S.C. § 1962(c)(d)**

14 54. Plaintiff, on behalf of itself and all others similarly situated, realleges and
15 incorporates herein by reference each of the allegations contained in the preceding paragraphs of
16 this Complaint.

17 55. This Count, which alleges violations of Section 1962(c) of RICO, 18 U.S.C.
18 § 1962(c), is asserted against the Defendants on behalf of the Class.

19 56. Plaintiff, the members of Class, and the Defendants are each "persons," as that
20 term is defined in 18 U.S.C. § 1961(3).

21 57. At all relevant times, in violation of 18 U.S.C. § 1962(c), the Defendants
22 conducted the affairs of certain association-in-fact enterprises identified herein, the affairs of
23 which affected interstate commerce through a pattern of racketeering activity, and engaged in a
24 conspiracy in violation of 1962(d).



1 **A. The Enterprises**

2 58. The RICO "enterprises" are associations-in-fact consisting of (a) Countrywide,
3 including its directors, employees and agents, (b) mortgage brokers and (c) LandSafe. The
4 Enterprises are ongoing and continuing business organizations consisting of both corporations
5 and individuals that are and have been associated for the common or shared purposes of
6 preventing appraisers on the Field Review List from obtaining any business related to real estate
7 transactions in which Countrywide is the mortgage lender.

8 59. The Enterprises have a systemic linkage because there are contractual
9 relationships, financial ties, and continuing coordination of activities between Countrywide,
10 LandSafe and the brokers. There is a common communication network by which Countrywide
11 and the brokers shared and continued to share information on a regular basis throughout the class
12 period. Typically this communication occurred by use of the wires and mails in which
13 Countrywide, LandSafe and the brokers exchanged information about properties and appraisers.
14 Countrywide, LandSafe and the brokers functioned as a continuing unit for the purposes of
15 implementing the Field Review List.

16 60. At all relevant times, LandSafe and the brokers were aware of Countrywide's
17 conduct; were knowing and willing participants in that conduct by refusing to hire the Plaintiff
18 and the Class members to conduct appraisals for loans being provided by Countrywide; and
19 reaped profits from that conduct.

20 61. The impacts of this conduct are still in place, *i.e.*, the Plaintiff and the Class
21 members are still on the Field Review List and, consequently, brokers placing loans with
22 Countrywide refuse to hire Plaintiff and the Class members to prepare appraisals.

23 62. The foregoing evidences that all Defendants are willing participants in the
24 Enterprises; had a common purpose and interest in the establishment and operations of the
25 foregoing scheme; and agreed to a structure wherein LandSafe, the brokers and Countrywide
26



1 would bypass the Plaintiff and the Class members in favor of other appraisers not on the Field
2 Review List. This structure was the basis on which the Enterprises operated.

3 **B. The Defendants' Use of the U.S. Mails and Interstate Wire Facilities**

4 63. The Enterprises engaged in and affected interstate commerce because they
5 engaged in the following activities across state boundaries: the exclusion of appraisers appearing
6 on the Field Review List from conducting appraisals.

7 64. During the Class Period, the Defendants' illegal conduct and wrongful practices
8 were carried out by an array of employees, working across state boundaries, who necessarily
9 relied upon frequent transfers of documents, information, products and funds by the U.S. mails
10 and interstate wire facilities.

11 65. The nature and pervasiveness of the scheme, which was orchestrated out of
12 Countrywide's offices, necessarily required those offices to communicate directly and frequently
13 with brokers by the U.S. mails and by interstate wire facilities.

14 66. Many of the precise dates of Defendants' uses of the U.S. mails and interstate
15 wire facilities (and corresponding RICO predicate acts of mail and wire fraud) have been hidden
16 and cannot be alleged without access to these Defendants' books and records. However, Plaintiff
17 can generally describe the occasions on which the RICO predicate acts of mail fraud and wire
18 fraud occurred, and how those acts were in furtherance of the scheme; Plaintiff describes this
19 below.

20 67. The Defendants' use of the U.S. mails and interstate wire facilities to perpetrate
21 the scheme involved thousands of communications throughout the Class Period including
22 telephone, email and U.S. Mail communications to brokers of the appraisers appearing on the
23 Field Review List; the transmission by email and/or U.S. mail of appraisals prepared by
24 appraisers who did not appear on the Field Review List. In addition to these RICO predicate
25 acts, it was foreseeable to each Defendant that it would communicate with the brokers by the
26 U.S. mails and by interstate wire facilities. Further, each Defendant has, in furtherance of the



1 scheme, communicated through use of the U.S. mails and by interstate wire facilities with their
2 various local offices or divisions.

3 **C. Conduct of the RICO Enterprises' Affairs**

4 68. During the Class Period, the Defendants have exerted control over the Enterprises
5 and, in violation of Section 1962(c) of RICO, the Defendants have conducted or participated in
6 the conduct of the affairs of those RICO Enterprises, directly or indirectly by controlling which
7 appraisals it would accept to qualify a loan. The brokers accepted the Defendants' control over
8 appraiser choice so that the brokers would get the loan approved and receive their commission
9 on the origination of the loan.

10 69. The Enterprises had a hierarchical decision-making structure headed by
11 Countrywide. Countrywide distributed the Field Review List and/or issued instructions on
12 which appraisals that it would accept made it available.

13 **D. The Defendants' Pattern of Racketeering Activity**

14 70. Each of the Defendants conducted and participated in the affairs of the above-
15 referenced Enterprises through a pattern of racketeering activity, including acts that are
16 indictable under 18 U.S.C. § 1341, relating to mail fraud, and 18 U.S.C. § 1343, relating to wire
17 fraud. The Defendants' pattern of racketeering likely involved thousands of separate instances of
18 use of the U.S. mails or interstate wire facilities in furtherance of their scheme. Each of these
19 fraudulent mailings and interstate wire transmissions constitutes a "racketeering activity" within
20 the meaning of 18 U.S.C. § 1961(1)(B). Collectively, these violations constitute a "pattern of
21 racketeering activity," within the meaning of 18 U.S.C. § 1961(5), in which the Defendants
22 intended to defraud the Plaintiff, members of the Class and other intended victims.

23 71. The Defendants' racketeering activities amounted to a common course of
24 conduct, with similar pattern and purpose, intended to exclude impartial and objective appraisers,
25 that is, the Plaintiff and members of the Class. Each separate use of the U.S. mails and/or
26 interstate wire facilities employed by the Defendants was related, had similar intended purposes,



1 involved similar participants and methods of execution, and had the same results affecting the
2 same victims, including the Plaintiff and members of the Class. Each of the Defendants has
3 engaged in the pattern of racketeering activity for the purpose of conducting the ongoing
4 business affairs of the Enterprises.

5 **E. Damages Caused by the Defendants' Scheme**

6 72. The Defendants' violations of federal law and their pattern of racketeering
7 activity have directly and proximately caused the Plaintiff and members of the Class to be
8 injured in their business or property because the Plaintiff and members of the Class have lost a
9 substantial amount of business by being excluded for preparing appraisals on real estate
10 transactions where Countrywide is the lender or potential buy of the paper.

11 73. Under the provisions of Section 1964(c) of RICO, the Defendants are jointly and
12 severally liable to the Plaintiff and members of the Class for three times the damages that
13 Plaintiff and the Class members have sustained, plus the costs of bringing this suit, including
14 reasonable attorneys' fees.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, Plaintiff prays for relief and judgment, as follows:

17 A. Determining that this action is a proper class action and designating Plaintiff as
18 representative of the Class under Rule 23 of the Federal Rules of Civil Procedure;

19 B. Awarding compensatory damages in favor of Plaintiff and other Class members
20 against all Defendants, jointly and severally, for all damages sustained as a result of Defendants'
21 wrongdoing, in an amount to be proven at trial, including interest thereon;

22 C. Awarding treble damages;

23 D. Awarding Plaintiff and the Class their reasonable costs and expenses incurred in
24 this action, including counsel fees and expert fees; and

25 E. Such other and further relief as the Court may deem just and proper.
26




1 **JURY DEMAND**

2 Pursuant to Federal Rule of Civil Procedure 38(a), Plaintiff hereby demands a trial by
3 jury of all issues so triable.

4 DATED: October 16, 2008.

5 HAGENS BERMAN SOBOL SHAPIRO LLP

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