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8 **Attorneys for Plaintiff,**  
9 **The People of the State of California**

10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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13  
14 PEOPLE OF THE STATE OF  
CALIFORNIA,

15 Plaintiff,

16 v.

17 L.M.A. MARKETING, INC. DOING  
18 BUSINESS UNDER THE FICTITIOUS  
BUSINESS NAME OF MORTGAGE  
19 CONCEPTS

20 Defendant.

Case No.

**COMPLAINT FOR INJUNCTION,  
CIVIL PENALTIES AND  
DAMAGES**



1 **INTRADISTRICT VENUE**

2 5. The claims are based on violations that occurred in San Joaquin  
3 County and elsewhere in the State of California.

4 **PARTIES**

5 6. Plaintiff, by and through its attorney, Bill Lockyer, Attorney General  
6 of the State of California, is authorized by 47 U.S.C. § 227(f)(1) to file actions in federal  
7 district court to enjoin violations and enforce compliance with the TCPA, and the  
8 regulations issued pursuant to the TCPA, on behalf of residents of the State of California  
9 and to obtain actual damages or damages of \$500 for each violation and up to treble that  
10 amount for each violation committed willfully or knowingly.

11 7. Plaintiff, by and through its attorney, Bill Lockyer, Attorney General  
12 of the State of California, is authorized by 15 U.S.C. § 6103 to file actions in federal  
13 district court to enjoin violations and enforce compliance with the Telemarketing Act,  
14 and the regulations issued pursuant to the Telemarketing Act, on behalf of residents of  
15 the State of California and to obtain damages or other compensation on behalf of the  
16 residents of the State of California.

17 8. Plaintiff, by and through its attorney, Bill Lockyer, Attorney General  
18 of the State of California, is authorized by California Business & Professions Code  
19 section 17204 to obtain injunctive relief to halt violations of and enforce compliance with  
20 California Business & Professions Code section 17200. Section 17206 of the California  
21 Business and Professions Code further authorizes Plaintiff to seek civil penalties for  
22 violations of California Business and Professions Code section 17200.

23 9. Defendant L.M.A. Marketing, Inc. is a corporation organized under  
24 the laws of the State of Florida.

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1 **VIOLATIONS**

2 **COUNT I**

3 10. Paragraphs 1 through 9 are incorporated by reference herein as  
4 though set forth in full.

5 11. Beginning on or after October 17, 2003, and continuing to the  
6 present, Defendant has violated 47 C.F.R. § 64.1200(c)(2) (as amended by *Rules and*  
7 *Regulations Implementing the Telephone Consumer Protection Act (TCPA) of 1991*, 68  
8 Fed. Reg. 44, 144 (July 25, 2003)), by engaging in a pattern or practice of initiating  
9 telephone solicitations to residential telephone subscribers, including subscribers in San  
10 Joaquin and elsewhere in the State of California, whose telephone numbers were listed on  
11 the Registry.

12 12. Defendant's violations are willful and knowing.

13 **COUNT II**

14 13. Paragraphs 1 through 12 are incorporated by reference herein as  
15 though set forth in full.

16 14. Beginning at a date unknown to Plaintiff, and continuing to the  
17 present, Defendant has violated 47 C.F.R. § 64.1200(b)(2)(as amended by *Rules and*  
18 *Regulations Implementing the Telephone Consumer Protection Act (TCPA) of 1991*, 68  
19 Fed. Reg. 44, 144 (July 25, 2003)), by engaging in a pattern or practice of initiating  
20 telephone calls to residential telephone lines, including subscribers in San Joaquin  
21 County and elsewhere in the State of California, using an artificial or prerecorded  
22 telephone message delivered by an automatic telephone dialing system without, during or  
23 after the message, stating clearly the identity of the business, the name under which the  
24 entity is registered to conduct business with the State Corporations Commission (or  
25 comparable regulatory authority), and the telephone number of such business, other  
26 entity, or individual.

27 15. Defendant's violations are willful and knowing.

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1 **COUNT III**

2 16. Paragraphs 1 through 15 are incorporated by reference herein as  
3 though set forth in full.

4 17. Beginning at a date unknown to Plaintiff, and continuing to the  
5 present, Defendant has violated 47 C.F.R. § 64.1200(d)(4)(iv) (as amended by *Rules and*  
6 *Regulations Implementing the Telephone Consumer Protection Act (TCPA) of 1991*, 68  
7 Fed. Reg.44,144 (July 25, 2003)), by engaging in a pattern or practice of initiating calls  
8 for telemarketing purposes to residential telephone lines, including subscribers in San  
9 Joaquin County and elsewhere in the State of California, without, during or after the  
10 message, providing the caller's name, the Defendant's name and a telephone number at  
11 which the caller could be reached, thereby failing to institute the minimal required  
12 procedures for maintaining a list of persons who request not to receive telemarketing  
13 calls made by or on behalf of the Defendant.

14 18. Defendant's violations are willful and knowing.

15 **COUNT IV**

16 19. Paragraphs 1 through 18 are incorporated by reference herein as  
17 though set forth in full.

18 20. Beginning on or after October 17, 2003, and continuing to the  
19 present, Defendant has violated the 16 C.F.R. § 310.4(b)(1)(iii) by engaging in a pattern  
20 or practice of initiating interstate telephone solicitations to residential telephone  
21 subscribers, including subscribers in San Joaquin County and elsewhere in the State of  
22 California, whose telephone numbers were listed on the Registry.

23 21. Defendant's violations are willful and knowing

24 **COUNT V**

25 22. Paragraphs 1 through 21 are incorporated by reference herein as  
26 though set forth in full.

27 23. Beginning at a date unknown to Plaintiff and continuing to the  
28 present, Defendant has engaged in unfair competition as defined in California Business &





1 F. Pursuant to California Business & Professions Code section 17206,  
2 assess against Defendant a civil penalty of up to \$2,500.00 for each violation of  
3 California Business & Professions Code section 17200, as proven at trial, but in an  
4 amount of not less than \$100,000;

5 G. Assess against Defendant all costs incurred by Plaintiff, as well as  
6 such other and additional relief as the Court may determine to be just and proper.

7 Dated: January 12, 2004

8 Respectfully submitted,

9 BILL LOCKYER  
10 Attorney General of the State of California

11 HERSCHEL ELKINS  
12 Senior Assistant Attorney General

13 ALBERT NORMAN SHELDEN  
14 Supervising Deputy Attorney General

15 IAN K. SWEEDLER  
16 Deputy Attorney General

17 BETTINA C. REDWAY  
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