UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
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THE PEOPLE OF THE STATE OF NEW YORK, by LETITIA JAMES, Attorney General of the State of New York and LINDA LACEWELL, Superintendent of Financial Services of the State of New York,

No.: 19-CV-7191 ( )

Plaintiff,

COMPLAINT

- against -

VISION PROPERTY MANAGEMENT, LLC; KAJA HOLDINGS 2, LLC; RVFM 11 SERIES, LLC; DSV SPV 1, LLC; DSV SPV 2, LLC; DSV SPV 3, LLC; ALAN INVESTMENTS III, LLC; ALEX SZKARADEK and JOHN DOES 1-50,

Defendants.
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Plaintiffs, The People of the State of New York, by Letitia James, the Attorney General of the State of New York (the "NYAG"), and Linda Lacewell, Superintendent of Financial Services of the State of New York (the "Superintendent"), through the undersigned attorneys, bring this action against defendants Vision Property Management, LLC, Kaja Holdings 2, LLC, RVFM 11 Series, LLC, DSV SPV 1, LLC, DSV SPV 2, LLC, DSV SPV 3, LLC, Alan Investments III, LLC, Alex Szkaradek and John Does 1-50 (collectively "Defendants"), for unlawful, deceptive and abusive practices in connection with the sale and financing of severely distressed and dilapidated homes to consumers primarily in central and upstate New York. Defendants engage in a predatory form of what is known as seller financing, utilizing agreements that purport to grant Defendants all the rights and benefits of being both a lender and a landlord, while leaving their economically distressed and vulnerable customers without the legal protections of either borrowers or tenants. These practices are deceptive, unfair and abusive under the Consumer Financial Protection Act of

2010 ("CFPA"), as well as deceptive and illegal under New York law.

NATURE OF THE ACTION

1. Vision Property Management, LLC ("Vision" or "Vision Property Management") and its affiliated companies operate an illegal, unlicensed mortgage lending business in New York, offering disguised, predatory subprime home loans, including illegal finance-lease hybrid agreements to some of the most vulnerable New Yorkers.

2. Vision specializes in buying severely distressed properties and then marketing these properties at a substantial markup to consumers, without making any repairs or renovations and without fully disclosing to consumers the many conditions that it knows exist at the properties and the repairs that will need to be made. Vision targets vulnerable consumers who are eager to share in the "American dream" of homeownership but who cannot "qualify for conventional property purchases…due to various employment, health, divorce or other financial reasons." It claims that its "unique" business model is their path to homeownership. In reality, Vision's "unique" business model makes significant profits with little risk by skirting consumer protections and financial regulations and trapping vulnerable consumers, including the disabled, elderly and others living on fixed income, with high cost mortgages and uninhabitable homes.

3. Vision's "unique" business model is a form of predatory subprime seller financing – *i.e.*, subprime lending by the same party that is selling the property. Although seller financing generally was not regulated in 2004 when Vision started its business, the regulatory landscape changed in response to the 2008 financial crisis. By 2009 mortgage loan originators – people who accept loan applications – and, by 2011, any lender engaged in the business of making seller financed loans, had to be licensed to operate in New York.

4. Vision initially characterized its agreements as Contracts for Deed ("CFD agreements"). A typical Vision CFD agreement required a consumer to make an initial down

payment of a few thousand dollars and monthly payments of principal and interest over a twenty or thirty-year period, at which point legal title would transfer to the consumer. Although Vision represented to its consumers that the interest rates for its CFD agreements were between 7% and 10%, because Vision raised the purchase price in the event consumers needed financing, the effective interest rates based on this "time-price differential" were often substantially higher. Under the terms of the agreements, consumers took the property "as is" and were required to fix and repair the property within a few months, and in some instances could not live in the homes before repairs were made. If the consumers defaulted, the CFDs converted to leases, enabling Vision to deprive its consumers of the foreclosure protections to which they are entitled and keep the monetary and sweat equity the consumers had built up.

5. In 2013 Vision began characterizing its agreements as Leases with Option to Purchase ("LOP agreements") instead of CFD agreements, in part to "get around… any potential[] State Licensing issues." The new "leases" were in sum and substance indistinguishable from Vision's CFD seller finance agreements, including in continuing to routinely impose high effective interest rates in the range of 10% to 25% based on increases to the purchase price of homes for consumers who could not pay cash. Additionally, the LOP agreements purported to permit Vision: (i) to evict customers rather than use more extensive judicial foreclosure procedures, (ii) to avoid regulations imposed on seller finance; (iii) to place the burdens and risks of ownership – including taxes, insurance and other legal and financial uncertainties regarding the property – on customers and (iv) to shirk the legal duties of a landlord to fix and maintain its properties in a safe and habitable condition. In other words, Vision tried to create an illegal finance-lease hybrid that would give it all the benefits and advantages of being

both a mortgagee and landlord, without any of the associated risks or responsibilities of those roles.

6. Despite engaging in approximately 150 CFD and LOP transactions in New York since approximately 2011, neither Vision nor its affiliated LLCs has a license to engage in mortgage lending and Vision never employed anyone who was licensed to originate mortgages. Nor is Vision or many of its affiliates even registered to do business in New York.

7. Vision has violated federal and state laws applicable to mortgage lending and the leasing of residential properties. On the one hand, Vision engaged in unlicensed seller financed mortgage lending at effective interest rates as high as 25%, while disregarding legally required disclosures designed to protect consumers and failing to conduct sufficient analysis of consumers' ability to pay off their loans. On the other hand, it attempted to evade its obligations as a mortgage lender by describing its transactions as leases, or, in the case of CFD transactions, by providing that the loans revert to a lease upon the consumer's default. Yet to the extent Vision characterizes its transactions as leases, it also illegally and deceptively disclaims any responsibility for ensuring that its homes are in a habitable condition under New York law. Instead, Vision leaves its consumers, including in some instances the elderly and children, living with dangerous and unhealthy conditions, such as pest infestations, faulty electrical wiring, missing heaters and septic systems, mold, asbestos, and severely damaged and rotted out, floors, walls and/or roofs. Unsurprisingly, these agreements set consumers up to fail. Vision's data indicates that over 40% of the seller financing agreements signed with New York consumers ended in an eviction or surrender of the property back to Vision.

8. As the state regulator of financial services in New York, the Superintendent enforces the Banking Law and Financial Services Law for the benefit of New Yorkers, to protect

them from predatory lending and other forms of misconduct. As the chief law enforcement officer of New York, the New York Attorney General enforces New York's consumer protections laws and protects the public from fraudulent, deceptive and illegal business practices. Both the Superintendent, as state financial regulator, and the New York Attorney General are authorized to enforce provisions of the CFPA prohibiting deceptive, abusive and/or unfair acts and practices. The Superintendent and the People of New York, by the New York Attorney General, bring this action to enjoin Vision's illegal activity in New York, for restitution and/or damages for all consumers who were injured by these practices, disgorgement and statutory penalties.

PARTIES

9. Plaintiff People of the State of New York, by Attorney General Letitia James, brings this action pursuant to Executive Law § 63(12), General Business Law ("GBL") §§ 349 and 350-d and the Consumer Financial Protection Act of 2010, 12 U.S.C. § 5552(a)(1).

10. Plaintiff Linda Lacewell is the Superintendent of the Department of Financial Services of the State of New York (the "Department") and the successor to the Superintendent of Banks of the State of New York.[1] Plaintiff maintains her principal office in the City, County, and State of New York at One State Street, New York, New York 10004.

11. Defendant Vision Property Management, LLC is a Delaware limited liability company that both manages and/or acts as agent for a group of limited liability corporations that purchase and provide distressed, foreclosed home to vulnerable consumers. According to the New York Department of State, Division of Corporations, Vision is not registered to do business

[1] The Department was created by transferring the functions of the New York State Banking Department and the New York State Insurance Department into a new agency, effective October 3, 2011.

in New York. Its principal place of business is at 16 Berryhill Rd. Suite 200, Columbia, South Carolina. According to its website, Vision "is a family-owned business founded in 2004 and the country's largest provider of affordable Lease-to-Own property opportunities . . . for individuals and families that may not currently qualify for conventional property purchases due to various employment, health, divorce or other financial reasons."

12. Defendant Vision Property Management, along with its officers and employees, manage and control a large number of limited liability corporations, including Defendants RVFM 11 Series, LLC; Kaja Holdings 2, LLC; DSV SPV 1, LLC; DSV SPV 2, LLC; DSV SPV 3, LLC; and Alan Investments III, LLC (collectively the "LLC Defendants").

13. Vision's officers and employees also frequently act as officers and/or employees of the LLC Defendants. Each of the LLC Defendants shares office space with Vision or at times uses Vision's office space at 16 Berryhill Road, Suite 200, Columbia, South Carolina 29210 and each LLC Defendant also relies on Vision's advertising and marketing to generate business in the form of CFD and/or LOP agreements with consumers.

14. Vision's co-founders Antoni Szkaradek and Defendant Alex Szkaradek (father and son, respectively) are members in the LLC Defendants, either directly or in some cases through their interests in Vision and its affiliates, and either control them outright or in combination with other investors.

15. The LLC Defendants each hold title in some of the properties and, therefore, are named in the contracts with consumers, are named in eviction papers seeking to remove those consumers and receive notices of building code violations as the record title holder.

16. Defendant RVFM 11 Series, LLC, is a Delaware limited liability company registered with the New York Department of State, Division of Corporations. Its principal place

of business is listed as 16 Berryhill Road, Suite 200, Columbia, South Carolina 29210. Defendant RVFM 11 Series, LLC is managed by and affiliated with the Defendant Vision Property Management and is under the direction and control of Defendant Alex Szkaradek.

17. Defendant Kaja Holdings 2, LLC is a Delaware limited liability company registered with the New York Department of State, Division of Corporations. Its principal place of business is listed as 2 Office Park Court, Suite 103, Columbia, South Carolina 29223. Kaja Holdings 2, LLC also has or uses for aspects of its business an office located at 16 Berryhill Road, Suite 200, Columbia, South Carolina 29210. Defendant Kaja Holdings 2, LLC is managed by and affiliated with the Defendant Vision Property Management and is under the direction and control of Defendant Alex Szkaradek.

18. Defendant DSV SPV3, LLC is a Delaware limited liability company registered with the New York Department of State, Division of Corporations. Its principal place of business is listed as 16 Berryhill Road, Suite 200, Columbia, South Carolina 29210. Defendant DSV SPV3, LLC is managed by and affiliated with the Defendant Vision Property Management and is under the direction and control of Defendant Alex Szkaradek.

19. Defendant DSV SPV 1, LLC is a Delaware limited liability company that is not registered to do business in the State of New York. Its principal place of business is listed as 16 Berryhill Road, Suite 200, Columbia, South Carolina 29210. Defendant DSV SPV1, LLC is managed by and affiliated with the Defendant Vision Property Management and is under the direction and control of Defendant Alex Szkaradek.

20. Defendant DSV SPV2, LLC is a Delaware limited liability company that is not registered to do business in the State of New York. Its principal place of business is listed as 16 Berryhill Road, Suite 200, Columbia, South Carolina 29210. Defendant DSV SPV2, LLC is

managed by and affiliated with the Defendant Vision Property Management and is under the direction and control of Defendant Alex Szkaradek.

21. Defendant Alan Investments III, LLC is a Delaware limited liability company that is not registered to do business in the State of New York. Its place of business is listed as 16 Berryhill Road, Suite 200, Columbia, South Carolina 29210. Defendant Alan Investments III, LLC is managed by and affiliated with the Defendant Vision Property Management and is under the direction and control of Defendant Alex Szkaradek.

22. According to the Department of State, Vision is not registered to transact business in New York, and at least half of its affiliated entities also are not registered to transact business in New York. None of the Defendants are licensed by the Department to engage in mortgage lending in New York.

23. Defendant Alex Szkaradek is or was, at all times relevant herein, the Chief Executive Officer and a Managing Member of Vision Property Management, LLC and is a resident of South Carolina. As both Chief Executive Officer and Managing Member of Defendant Vision Property Management, and in his individual capacity, Defendant Alex Szkaradek directed and controlled Vision's and the LLC Defendants' practices, actions, and conduct.

24. Defendants Vision Property Management, Alex Szkaradek and the LLC Defendants they manage and control are referred to as the "Vision Defendants."

25. Defendants John Does 1 through 50 are physical persons and/or legal entities whose identities are not yet known to Plaintiffs at this time. Upon information and belief, Does 1-50 acted in concert with and have been complicit with the wrongdoing alleged against the other defendants, including but not limited to unlicensed mortgage loan origination.

JURISDICTION AND VENUE

26. This Court has personal jurisdiction over Defendants because they each transact business in the State of New York relating to "leasing" and/or the "sale" and "financing" of single family homes located in the State of New York.

27. This Court has personal jurisdiction over Defendants Kaja Holdings 2, LLC, RVFM 11 Series, LLC and DSV SPV3, LLC because they are registered to do business in the State of New York.

28. This Court has personal jurisdiction over Defendant Alex Szkaradek because he controlled and managed Vision and committed the acts complained of herein in the State of New York.

29. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1337(a), 12 U.S.C. § 5552(a)(1), 12 U.S.C. § 5565(a)(1), and 28 U.S.C. § 1367(a).

30. This Court has supplemental jurisdiction over Plaintiffs' state-law claims because they are so related to the federal claims that they form part of the same case or controversy. 28 U.S.C. § 1367(a).

31. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and 12 U.S.C. § 5564(f).

32. Plaintiffs provided Defendants with timely pre-litigation notice, pursuant to GBL Article 22-A, by email, overnight mail and certified mail, return receipt requested.

33. Plaintiffs also sent timely notice of this action pursuant to 12 CFR § 1082.1 and a complete and unredacted copy of the complaint to the Office of Enforcement of the Bureau of Consumer Financial Protection (the "Bureau") and the Office of the Executive Secretary of the Bureau.

STATEMENT OF FACTS

I. Vision's Business Model – Subprime Seller Financing

34. Vision is a South Carolina company that, for itself and its private equity investors, buys severely distressed residential real properties at a discount and sells them at a substantial markup to vulnerable consumers. Since the inception of the business in 2004, Vision claims to have sold over 10,000 properties across 49 states. In New York, Vision has sold approximately 150 properties since 2011 through seller financing agreements, all located in central, western and upstate New York. Ex. 1.

35. Vision deals in homes that generally have been vacant for a long time and often require significant repairs to make them habitable and compliant with local building codes. As the following excerpts from Vision's internal inspection reports in 2013 and 2014 reveal, Vision knew that many of the properties it purchased and then offered to consumers in New York were uninhabitable:

- "house in really poor condition, some windows broke[n] or missing, walls basement filled with so much debris and holes in almost every wall and black mold chimney leaking water … dog feces in one bedroom." Ex. 2.
- "All floors, trim, windows, roof worn and in poor shape. Some missing copper fixtures, wires. Bathroom gutted. Rear ceiling damaged…Overall poor condition." Ex. 3.
- One property was found to have asbestos insulation in the attic and a black mold problem. "The black mold problem is out of control at this home and may fail HUD requirements and o[u]r standards. This home would cost more in repairs, mold remediation, remodeling, and asbestos removal than current value of home. I cannot advise putting up this home to be leased out to consumers." Ex. 4.

36. Vision is not in the business of repairing or rehabilitating these properties. Rather, Vision seeks to pass all of the burden and cost to repair the properties onto the consumer. As one employee described Vision's business model, "we do what we always do…pass the responsibility on to the buyer."

37. Because of the maintenance they require, Vision deals in properties that "just don't fit a traditional sales option, meaning, you can't put this home on the market with a listing agent and expect Mr. and Mrs. John Doe and their two kids to buy it and move into it because it has deferred maintenance." Vision's solution is to target consumers with limited options – people who want to share in the dream of homeownership but who cannot "qualify for a traditional loan" – claiming that its unique program and inventory of "fixer upper homes" is their path to homeownership.

38. Vision specifically targets these vulnerable but eager consumers by characterizing itself as a consumer-friendly alternative to irresponsible financial institutions. One marketing video targeted people who lost their home during the financial crisis, claiming that while there "is nothing better for one's family than owning a home," "due to Wall Street's greed [and banks] giving bad loans [many] families had to leave their homes and start from scratch." While "banks typically will not lend to anyone with a credit score lower than a 680 [Vision's] average customer's credit score is a 565." And, with a "down payment [that] can be two percent or lower," Vision claimed consumers could complete the application process in fewer than two weeks.

39. Another video asked: "Does homeownership seem out of reach? Do you have less than perfect credit? Still want to buy a house? You're probably asking yourself a question, is there any hope?" Vision claimed to provide the alternative. Through its business model, Vision represented to customers that it was helping "to restore neighborhoods" and supporting them in "their pursuit of the American dream of homeownership."

A. Vision's Business Is Built On Seller Financing

40. The secret to Vision's "unique" business model – its alternative to a traditional mortgage loan – is seller financing. Seller financing simply means that the property seller, rather than a bank, provides the funding to finance a property purchase. Instead of advancing money to the purchaser as a typical mortgage lender would, the seller extends credit by deferring payment of the full purchase price in exchange for the purchaser making installment payments over a specified period of time and at a set interest rate until the loan is repaid. Typically, the seller holds legal title until all payments are made at which time legal title will pass to the buyer. The buyer has equitable title upfront by making the down payment and entering into the contract, including agreeing to bear homeowner responsibilities such as paying taxes and insurance.

41. In its solicitations to investors, Vision acknowledged that it was engaged in seller financing and promised that the business was profitable. From 2009 through at least 2012, Vision's website contained the following, or a substantially similar statement, touting that seller financing was the key to making substantial profits for investor portfolios:

> Owner financing is key to the success of an investment portfolio. Investors willing to hold a note balance and collect monthly payments on their property can see a return on investment well above 500% over the length of the term. VPM [Vision Property Management] has years of experience qualifying occupants well suited to purchase a house through a Land Contract agreement.[2]

42. Seller financing was, according to Vision, "the best solution as REO [Real Estate Owned] prices drop below $100,000 . . . Seller financing becomes the only way to go below $50,000, and the widest profit margins are in the below $25,000 houses where [Vision] is a master."

[2] A "Land Contract" is another term for a seller financing agreement. Wikipedia defines a land contract as "a contract between the buyer and seller of real property in which the seller provides the buyer financing in the purchase, and the buyer repays the resulting loan in installments. Under a land contract, the seller retains the legal title to the property, while permitting the buyer to take possession of it for most purposes other than legal ownership. https://en.wikipedia.org/wiki/Land_contract.

43. A May 2012 email, soliciting an investor, explained Vision's seller financing business, which used a CFD as its financing agreement. The "model is simple: Based on great relations with Fannie, Freddie, FHA and ResCap, etc., Vision buys pools of foreclosed low-end houses … and sells or leases them long-term. As an example, a home will be bought for $10,000 and sold in a few months for $40,000 or put out on CFD with a UBP [*sic*] of $45,000 and an implied interest rate of 8.25%."

44. Not only was the business lucrative but, according to Vision, it was the only way to profit from severely distressed foreclosed homes, enabling Vision to "sell low to mid tier assets previously thought to be unsellable," properties "most banks and lending institutions can't give away."

II. Vision Has Operated an Illegal Mortgage Lending Business Since 2011

45. Seller financing was not regulated as mortgage activity in New York before 2011 because these arrangements were generally considered to be one-off transactions, either involving sophisticated parties or transactions between family members or people who had a personal relationship. The financial crisis led to a reappraisal of the status of seller financing in New York and increasing regulation of this activity at the federal level.

46. The federal SAFE Mortgage Licensing Act of 2008 established a nationwide licensing scheme for mortgage loan originators ("MLOs") – people who take, offer or negotiate mortgage loan applications – that all states were required to adopt.[3] Commentary from June 2011 implementing rules promulgated under the SAFE Act clarified that the definition of a mortgage loan covered by the SAFE Act included a seller financed mortgage. Specifically, the Department of Housing and Urban Development confirmed "commenters' observation that a **'residential mortgage loan' includes an installment sales contract, which the commenters**

[3] New York implemented the SAFE Act in 2009 as part of an amendment to Banking Law Article 12-E.

advise is frequently involved in seller financing." 76 Federal Register at 38474 (emphasis added).

47. Later that year, as part of a broader amendment to limit exemptions to the licensing requirements of the Banking Law, 3 NYCRR Part 39.5 was amended to limit the exemption provided to anyone engaging in seller financing activity in New York. Consistent with the concept of seller financing as a one-off transaction, the amended Part 39.5 only required seller financers to become licensed as a mortgage banker if they engaged in more than a *de minimis* amount of business each year. Specifically, the amendment provided that the *de minimis* exemption was limited to:

> purchase money mortgages extended by a seller, where the seller is an individual, estate or trust that sells not more than three properties in any 12-month period, provided that the seller has not constructed or acted as a contractor for the construction of a residence being sold.

3 NYCRR Part 39.5(a).

48. Accordingly, following the amendment, any person or entity that originated more than three seller financing agreements in any consecutive 12-month period in New York needed to be licensed as a mortgage banker and comply with all of the laws and regulations that apply to the origination of mortgage loans. Starting in December 2011, Vision originated more than three seller financed agreements every year without being licensed by the Department or complying with the applicable consumer protection laws. Vision's efforts to evade regulatory scrutiny and the applicable consumer protection laws are evidenced by a June 2012 email regarding Vision's practice of not reporting to credit agencies because "not reporting keeps the[m] below the radar of being a 'regulated lender', which is important to the business model."

49. Vision's operations in New York can be divided into three phases: (1) 2012-2013 when Vision illegally offered its original seller financing model agreement; (2) 2013-early 2018

when Vision sought to conceal its illegal seller financing business by using a hybrid LOP agreement; and (3) 2018 to present, when Vision, after being confronted by the Department about the deceptive nature of its LOP agreements, apparently has reverted to a variation of its prior seller financing model agreement.

III. 2012-2013 - Vision's Original Seller Financing Agreements

A. Vision Offered Abusive, Predatory Loans

50. A typical CFD agreement included a purchase agreement and a promissory note that obligated the consumer to pay principal and interest, at a rate between 7% and 10%, over a twenty or thirty-year period. Ex. 5. The right to occupy, and the obligation to maintain and repair the property, transferred to the consumer upon the execution of the CFD agreement, but Vision retained record ownership until the consumer paid off the balance of the purchase price. Thus, instead of transferring title and filing a mortgage against the property, Vision retained title ownership as security on the purchaser's obligation to repay the loan.

1. Concealed Interest

51. While Vision's CFD agreements facially charged an interest rate between 7% and 10%, the agreements included concealed financing charges that could raise the rate as high as 25%. Vision accomplished this deception by capitalizing interest as part of a higher purchase price that the company charged to consumers who elected to finance through Vision.

52. For example, one consumer signed a CFD agreement in April 2013 for a property in Schenectady New York. Ex. 5. Vision acquired this property for $8,767.00 and sold it to the consumer approximately six months later for $37,000 – a 400% markup over the amount Vision paid for the property. The CFD required the consumer to make a $1,000 down payment at

signing with the balance of the purchase price to be paid in 240 equal installments at a stated interest rate of 8.4816%. Ex. 5.

53. At the time that the CFD agreement was signed, however, Vision offered to sell the Schenectady property for a cash price of $18,000.00 to anyone who could afford to pay it. Because the consumer elected to finance through Vision, the CFD purchase price was doubled to $37,000.00, incorporating a second financing charge, known as a time-price differential, which raised the cost of borrowing from Vision substantially. The only reason Vision used two methods of charging a consumer – interest and a time-price differential – was to hide the true cost of the loan from the borrower.

54. Recalculating the loan to this consumer to include the capitalized interest reveals that the consumer was charged far more than the 8.4816% interest rate disclosed in the promissory note. In substance, the consumer was financing a purchase price of $17,000 ($18,000 cash purchase price Vision was willing to accept at the time minus a $1,000 deposit). Paying $312.00 per month for 240 months would yield a total payment, at the end of the note term, of $74,880. Based on a principal amount of $17,000, the total payment includes $57,880 of interest, yielding an interest rate of 21.7266% that the consumer was actually paying to finance with Vision, not the 8.4% disclosed in the CFD agreement.

2. Violation of Consumer Protection Laws for High Cost and Subprime Loans

55. Banking Law §§ 6-l and 6-m provide extra protections to vulnerable consumers – Vision's target demographic – who take out high cost and subprime home loans. Section 6-l prohibits certain conduct in connection with high cost loans, including lending without due regard to repayment ability under Banking Law § 6-l(2)(k). Similarly, Section 6-m requires certain conduct in connection with subprime loans, including mandatory escrow of taxes and

insurance and mandatory disclosure of tax and insurance payments pursuant to Banking Law § 6-m(2)(o) and (p), as well as ensuring that the borrower has the ability to repay the loan according to its terms, pursuant to Banking Law § 6-m(4). Among other consumer protections, both sections require that a lender provide a notice advising consumers of the availability of housing counseling, and a list of local housing counselors that consumers should consult before taking on a high cost or subprime loan pursuant to Banking Law § 6-l(2)(l) and § 6-m(2)(j).

56. Under Banking Law § 6-l a mortgage loan is deemed to be a high-cost loan if it charges an interest rate that exceeds by eight percentage points the yield on treasury securities having comparable periods of maturity at the time. Banking Law § 6-l(1)(g). The 20-year treasury rate on April 15, 2013, the date the consumer referenced above signed a CFD with Vision was 2.85%.[4] The actual rate charged to this consumer exceeded that rate by nearly 19%, yet Vision provided none of the required disclosures to the consumer nor performed the full required ability to repay analysis.

57. A mortgage loan is defined to be subprime if its initial interest rate exceeds the comparable rate published by the Federal Home Loan Mortgage Corporation by more than one and three-quarters percentage points. Banking Law § 6-m(1)(c). The comparable rate published for this loan was 3.36%.[5] Even excluding the capitalized interest, the base interest rate Vision charged the consumer for financing the Schenectady property purchase, 8.4816%, exceeded the threshold rate by more than 5%. Again, Vision provided none of the required disclosures, nor did it provide for escrow of taxes and insurance.

58. Every seller financed mortgage loan originated by Vision, based solely on the interest rate stated in the promissory note or Vision's internal records, meets the definition of a

[4] https://www.treasury.gov/resource-center/data-chart-center/interest-rates/Pages/TextView.aspx?data=yieldYear&year=2013
[5] http://www.freddiemac.com/pmms/data.html?week=15&year=2014

subprime loan under Banking Law § 6-m. Similarly, the vast majority of the approximately 150 loans for which the Department knows both the cash and financed purchase price exceed the threshold for a high-cost home loan.

59. Although Vision made approximately 150 loans that qualify as subprime home loans under New York law, most of which also qualify as high-cost loans under New York law, Vision never complied with the requirements of Banking Law §§ 6-l and 6-m or the supporting regulations. A review of Vision's underwriting documents and internal communications suggest that it did not fully analyze and confirm its consumers' ability to repay the loans. Further, in violation of both sections, Vision failed to make any disclosures that it was offering high cost, subprime loans or that a housing counselor was available and should be consulted. Sections 6-l(2)(l) and 6-m(2)(j) set forth express terminology for the requisite consumer disclosures, and Vision made no effort to comply.

3. Vision Offered Credit to Consumers Without Required TILA Disclosures

60. The Truth in Lending Act, pursuant to 15 U.S.C. § 1638, and Regulation Z, 12 C.F.R. §§ 1026.18-19 and 1026.37-38, require additional disclosures for consumer credit transactions, including residential mortgage loans such as Vision's CFD and LOP agreements that are secured by real property expected to be used as a principal dwelling. Regulation Z, 12 C.F.R. § 1026.43, also requires mortgage lenders to, among other things, engage in a good faith determination that a consumer has a reasonable ability to repay the loan according to its terms.

61. While most non-mortgage consumer credit transactions, such as leases that meet the definition of credit sales under TILA, are subject to various disclosures regarding the amount financed, the finance charge, the annual interest rate, the payment schedule and other information

about the consumers' legal obligations and rights, mortgages in particular are subject to specific disclosure requirements under TILA and Regulation Z.

62. These required disclosures are intended to contain extensive information to help consumers understand the terms and financial structure of the mortgage they are considering, including the loan amount, the annual and total interest rates, the estimated total monthly payment, the total of payments, the finance charge and amount financed, down payments, deposits, closing fees and costs, insurance premiums, taxes, optional services, other costs, fees and charges as well as structural aspects of the loan, such as balloon payments, prepayment penalties, demand features, negative amortization, late payment fees, and variable interest rates.

63. Prior to October, 2015, these disclosures consisted of the Good Faith Estimate and the Initial Truth in Lending disclosures at the time a loan application was submitted, and the HUD-1 Settlement Statement and the Final Truth In Lending disclosures at the time of closing.

64. Since October 2015, the required disclosures have been streamlined to require an initial Loan Estimate that must be given to borrowers within three days of submitting a loan application and a Closing Disclosure, showing the actual terms of the loan, that must be provided at least three days before closing. 12 C.F.R. § 1026.19 and § 1026.37-38

65. From at least the time they became subject to regulation as mortgage lenders, Vision and its affiliates have repeatedly failed to engage in good faith determinations that their consumers have the reasonable ability to repay their loans according to their terms and to provide accurate or, in most cases, any required disclosures to consumers when entering into CFD and LOP agreements with them, in violation of TILA and Regulation Z.

B. Vision Unlawfully Sought to Limit Consumer Foreclosure Protections

66. Vision's CFD agreements sought to strip borrowers of the foreclosure protections afforded to mortgagors. A typical agreement provided that if the consumer fails "to make any of the payments or any part thereof, or to perform any of the covenants" of the agreement Vision may, in its sole discretion, declare the contract to be "null and void, and terminated." Ex. 5. If Vision elected termination, then the CFD provided that it would convert to a month-to-month tenancy and Vision could evict the consumer at any time.

67. Vision's standard agreement further provided that any election to terminate a CFD agreement would extinguish "all rights and interest" of the consumer in the property – basically forfeiting any equity the consumer built up in the property. Accordingly, upon a termination, the value of any repairs and improvements made to the property, plus any principal paid to Vision would be forfeited.

IV. 2013-2018 – Vision's Unlawful Finance-Lease Hybrid Agreements

68. In early 2013, in part to evade regulatory oversight based on new rules concerning seller finance, Vision started to transition its model agreement away from a CFD to a finance-lease hybrid agreement characterized by Vision as a Lease with an Option to Purchase.

69. As explained below, although characterized as a lease, and using different consumer-facing terminology for monthly and down payments, Vision and the other Defendants intended these LOP transactions as a mere continuation of their seller finance business, structured and accounted for them in the same way as their CFD agreements, and included numerous material provisions that are consistent with the sale of property based on credit but that are illegal or unconscionable under New York law when contained in a lease.

70. As with Vision's CFD agreements, these hybrid finance-lease agreements constitute mortgage loans that were made by unlicensed originators and lenders in violation of the New York Banking Law, and that require, among other things, additional specific disclosures and an ability to repay determination under the Truth in Lending Act and New York Banking Law §§ 6-l and 6-m. To the extent these agreements are leases, they further violate New York's statutory warranty of habitability under New York Real Property Law § 235-b and contain a number of unconscionable provisions in violation of Executive Law § 63(12).

A. Vision Adopted Its LOP Agreement to Avoid Regulation and to Capture Private Equity Investments

71. The decision to transition from a CFD to a LOP did not, in any way, indicate a rejection of Vision's prior business model. To the contrary, as Vision prepared to transition from its CFD to its LOP agreement, Vision touted to potential investors that "the profit margins are very high" on its CFD business. These agreements, Szkaradek reminded senior sales staff, "are our life blood."

72. Rather, the decision to transition to the LOP agreement was based primarily on Vision's solicitation of private equity investments and its desire to avoid regulation as a mortgage lender.

73. Vision was aware of the increasing regulation of seller financing as a mortgage business and the fact that such regulation applied to its CFD agreement. Recognizing that its CFD agreements were regulated mortgage agreements, Vision stopped servicing its CFD agreements in 2013, transferring responsibility for servicing to a licensed mortgage loan servicer and, when asked to by borrowers, issued IRS 1098 forms – "mortgage interest statements" – to at least five New York consumers for payments they made to Vision pursuant to a CFD agreement. Ex. 6.

74. That the transition to a LOP agreement was undertaken to avoid regulation was captured in a January 2103 email exchange between Vision CEO Alex Szkaradek and a business partner. Forwarding an article summarizing the MLO compensation rule promulgated by the Consumer Finance Protection Bureau – which by then had assumed responsibility for the MLO rules from the Department of Housing and Urban Development – someone outside of Vision wrote to Szkaradek: "[w]ould any of this stuff about 'Seller Financer" below pertain to you and your business? Scroll about half way down and you'll see 'Seller Financer' in bold." The "seller financer" summary referenced by the email explained that the Consumer Financial Protection Bureau ("Bureau,") similar to the amendment of Part 39 in New York, exempted seller financers from the coverage of the MLO compensation rule if the seller financer financed fewer than three properties during any twelve-month period and met certain conduct standards.

75. Szkaradek responded the same day. Acknowledging the application of the law to its business, and Vision's effort to avoid regulation, Szkaradek stated "[b]ecause of this convoluted mess we switched over to a lease option a while back."

76. In responding to the Department's investigation, Vision acknowledged that it switched to the LOP agreement in an effort to avoid regulation as a mortgage lender, writing that "as. the legal and regulatory landscape related to mortgage lending changed, Vision elected to pursue a lease model."

77. Adopting the LOP agreement was also an important part of Vision's effort to obtain private equity investments. For the first eight years of its operation, Vision relied on family and small investment groups to fund its purchase and sale of distressed residential properties. In 2012, looking for funding to expand its business, Vision began marketing itself to large private equity investors.

78. A major obstacle to obtaining such funding was the tax treatment afforded to seller financing agreements. The issue, in brief, was that Vision, as a dealer in real estate, was required to pay taxes at the time that a seller financing agreement was signed, instead of paying in installments as the payment on the CFD were received, creating a substantial upfront tax liability at the outset of agreement.

79. To get around this issue, in September 2012 Szkaradek suggested using an agreement characterized as a lease to avoid characterizing its agreements as sales and avoid the tax liability:

> I have a very good idea on it I wanted to share with you as well to avoid it all together. We have discussed for a year now to do sophisticated lease option contract that does the same things as a CFD and can be classified as rental income and avoid the tax issue all together....The tax issue ha[s] never been a big issue for us because of the amount of note sales we do but as we hold them longer term this option seems much more viable. Thoughts?

80. As Szkaradek mentioned, earlier that year Vision had explored the possibility of creating a lease purchase agreement that "does the same things as a CFD," but concluded that it could not legally do so. Specifically, in April 2012, one Vision executive wrote Szkaradek that, after speaking with attorneys in four different states, he found that there:

> is no Triple Net Lease that does what our CFD does in terms of making the buyer responsible for everything. If we enter into Residential Lease Agreements, even if the language states they're responsible, we would be held responsible not only for making the home habitable for a renter, but paying insurance and if we didn't have an insurance policy and god-forbid something bad were to happen to our tenant, we could be held liable.

81. Based on these conversations, the employee recommended that Vision "should probably stick to the CFD" model agreement. In other words, Vision and Szkaradek were quite aware that it would be illegal for them to have their proverbial cake and eat it too by putting all of the risks and responsibilities of ownership – including making the property habitable – on

their customers while evading any regulatory and legal restrictions as a lender. Yet they attempted to do so anyway.

82. Despite the potential liabilities, Szkaradek wrote to senior Vision staff of the importance of making the new model work, both to secure private equity funding and to avoid the licensing requirements:

> .... we need to make the lease purchase template work. I met here in Dallas with [another person engaged in business similar to Vision's] and he has been using this for over a **year to get around [the tax liability issue] and any potential[...] State Licensing issues that may arise** and this gets him around both and he has not had any issues evicting as well.... We have to figure out a way to make this work to close this deal and for our future.

(emphasis added).

B. "What's the difference [between a] lease option and [a CFD]?.... Almost nothing. Small idiosyncrasies."

83. The structure Vision developed, which would form the basis for the agreement Vision offered to New York consumers for five years, was still in substance a seller financed mortgage, using the same disguised high-cost interest rates. Vision's LOP agreements also imposed many or all of the same obligations on consumers that typically exist in a purchase agreement and that had been in Visions prior CFD agreements, including the duties (i) to fix the typically dilapidated and sometimes uninhabitable conditions at the properties, (ii) to thereafter maintain the condition of the property up to code and in a good state of repair, (iii) to pay and be responsible for all real estate taxes and liability insurance premiums, and (iv) to alleviate all other encumbrances, taxes, assessments, impositions, fines and charges legally imposed by municipal or state governments, whether subsequently imposed or currently due or delinquent. Exs. 7 and 8.

84. Indeed, Vision's "Lease Option FAQ" that was circulated to the entire company in March of 2013 for formatting and then provision to customers, states that their LOP is called a "Triple Net Lease" precisely because the Lessee "is responsible for the upkeep, taxes, and insurance of the home **as if they are the owner**." (emphasis added). The FAQ also makes clear to customers that Vision was not interested in and would not proceed with customers who just wanted to rent the property. Rather, they were only interested in entering LOP transactions with homebuyers:

> We're looking for people who are in the market to be homeowners and have the means and ability to do the needed repairs on the property. If that is not what you are interested in, then we will not proceed any further.

1. Vision Priced Its LOP Agreements As Seller Financed Mortgages

85. The "Lease Purchase Amortization" spreadsheet that Vision proposed in September 2012, based on a hypothetical transaction, contemplated a lease structure that used the same pricing structure as Vision's CFD agreements:

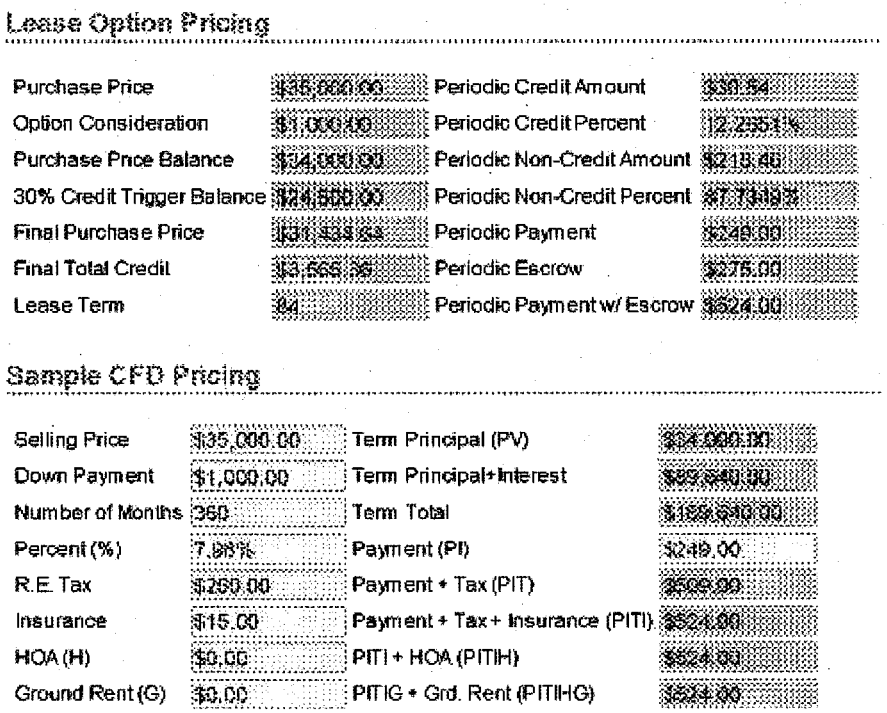
Lease Purchase Ammortization

		ABC1			Name:					John Q. Customer					
Lease Option Amount:		50000	Edit Field		Regular Payment:					482.510823					
Percent Credit To Option:		0.25													
First Full Payment Due Date:		41289													
CFD Concersion Term (months):		240	Edit Field												
CFD Conversion Rate:		0.1	Edit Field												
Property Tax Escrow (per month)		75													
		NEW LEASE OPTION STRUCTURE							COMPARISON TO OLD CFD STRUCTURE						
			Monthly Lease	Option Credit	Option End	Property	Total Monthly		Interest	Principle	Ending	Property	Total Monthly		
Pay #	Date	Balance	Payment	Amount	Balance	Tax Escrow	Payment		Paid	Paid	Balance	Tax Escrow	Payment		
									65802.5974	50000					Full P&I Pa
1	41289	50000	482.5108225	120.627706	49879.3723	75	557.510823		416.666667	65.8441559	49934.1558	75	557.51082		Paid
2	41320	49934.15584	482.5108225	120.627706	49758.7446	75	557.510823		416.117965	66.3928572	49867.763	75	557.51082		Paid
3	41348	49867.76299	482.5108225	120.627706	49638.1169	75	557.510823		415.564692	66.946131	49800.8169	75	557.51082		Paid
4	41379	49800.81686	482.5108225	120.627706	49517.4892	75	557.510823		415.006807	67.5040154	49733.3128	75	557.51082		Paid
5	41409	49733.31284	482.5108225	120.627706	49396.8615	75	557.510823		414.444274	68.0665489	49665.2463	75	557.51082		Paid
6	41440	49665.24629	482.5108225	120.627706	49276.2338	75	557.510823		413.877052	68.6337701	49596.6125	75	557.51082		Paid
7	41470	49596.61252	482.5108225	120.627706	49155.6061	75	557.510823		413.305104	69.2057182	49527.4068	75	557.51082		Paid
8	41501	49527.4068	482.5108225	120.627706	49034.9784	75	557.510823		412.72839	69.7824325	49457.6244	75	557.51082		Paid
9	41532	49457.62437	482.5108225	120.627706	48914.3506	75	557.510823		412.14687	70.3639528	49387.2604	75	557.51082		Paid
10	41562	49387.26042	482.5108225	120.627706	48793.7229	75	557.510823		411.560503	70.9503191	49316.3101	75	557.51082		Paid
11	41593	49316.3101	482.5108225	120.627706	48673.0952	75	557.510823		410.969251	71.5415717	49244.7685	75	557.51082		Paid
12	41623	49244.76853	482.5108225	120.627706	48552.4675	75	557.510823		410.373071	72.1377515	49172.6308	75	557.51082		Paid
13	41654	49172.63078	482.5108225	120.627706	48431.8398	75	557.510823		409.771923	72.7388994	49099.8919	75	557.51082		Paid
14	41685	49099.89188	482.5108225	120.627706	48311.2121	75	557.510823		409.165766	73.3450569	49026.5468	75	557.51082		Paid
15	41713	49026.54682	482.5108225	120.627706	48190.5844	75	557.510823		408.554557	73.9562657	48952.5906	75	557.51082		Paid

86. Vision simply changed the terminology it used to suggest consumers were signing a lease agreement with an option to purchase. What Vision once called a down payment was

renamed the "option consideration," while the loan principal payment was called the "option credit." Through these option payments, as through principal payments under the prior CFD agreements, Vision's customers slowly acquired and built up equity in the properties. Vision's customers also built significant equity (in this case "sweat equity") in the property through the often substantial repairs and improvements they were required to make, just as they had previously done under the CFD agreements.

87. This proposal was ultimately adopted by Vision and, as it did in the below internal pricing sheet for a LOP agreement Vision signed for a property in Lockport, NY during the summer of 2013, Vision priced its LOP agreements as if the consumer was borrowing the purchase price from Vision and charged the same 7% to 10% basic interest rate that applied to its CFD agreements: [6]



Lease Option Pricing

Purchase Price	$35,000.00	Periodic Credit Amount	$30.54
Option Consideration	$1,000.00	Periodic Credit Percent	12.2551%
Purchase Price Balance	$34,000.00	Periodic Non-Credit Amount	$218.46
30% Credit Trigger Balance	$24,500.00	Periodic Non-Credit Percent	87.7449%
Final Purchase Price	$31,433.64	Periodic Payment	$249.00
Final Total Credit	$3,566.36	Periodic Escrow	$275.00
Lease Term	84	Periodic Payment w/ Escrow	$524.00

Sample CFD Pricing

Selling Price	$35,000.00	Term Principal (PV)	$34,000.00
Down Payment	$1,000.00	Term Principal+Interest	$83,640.00
Number of Months	360	Term Total	$159,640.00
Percent (%)	7.00%	Payment (PI)	$249.00
R.E. Tax	$260.00	Payment + Tax (PIT)	$509.00
Insurance	$15.00	Payment + Tax + Insurance (PITI)	$524.00
HOA (H)	$0.00	PITI + HOA (PITIH)	$524.00
Ground Rent (G)	$0.00	PITIG + Grd. Rent (PITIHG)	$524.00

[6] The company continued to charge consumers who signed an LOP agreement a time-price differential and an interest rate even though it stopped disclosing the interest rate used to price the LOP.

Thus, the LOPs are priced as seller finance agreements and are subject to the same requirements as the CFD seller finance agreements under the Banking Law, as discussed above.

88. While Vision changed the terminology it used to describe its LOP agreements to consumers, internally Vision continued to use CFD terminology to record the performance of its LOP agreements.

89. For example, Vision signed one LOP with a consumer for a home in Madison county in December 2014. Ex. 7. The LOP allowed the consumer to purchase the property for $39,000 at any time up until the end of the lease term. *Id.* At the beginning of the lease term, the consumer paid $1,000 "option consideration," and, every month thereafter, a $295.00 "lease payment." *Id.* The lease states that the option consideration plus $30.78 of every monthly lease payment would be credited towards the purchase price. *Id.* The purported option consideration of $1,000 paid by the consumer referenced above was booked, under the unique property code identifier assigned by Vision, K3NY04, as a "Down Payment:"

Property Code	Days Under Current Contract	Selling Price	Down Payment	Original Balance	Closing Costs
K3NY03	139	56000	2000	54000	
K3NY04	139	39000	1000	38000	

90. Vision priced this LOP as if the consumer was borrowing $38,000 – the $39,000 purchase price minus the $1,000 "option consideration" paid at inception – at a rate of 8.604% over 30 years:

Property Code	Outside Escrow	Net Cash Balance	Interest Rate	Monthly Payment	Monthly Taxes
K3NY03		0	7.9944	396	75
K3NY04		0	8.604	295	210

91. The purchase price, minus any credits paid by the consumer, were recorded as the "UPB," the abbreviation used to record the unpaid principal balance of a mortgage:

Property Code	Current UPB
K3NY03	53080.97
K3NY04	37507.52

92. Although an LOP usually ran for a seven-year term, Vision's agreements contained a clause that provided that, unless the consumer during the first seven years of the transaction either (i) paid the remainder of the full purchase price of the property (finalizing the sale) *or* (ii) forfeited his or her rights (and equity) in the property and vacated, then (iii) at the end of the seven-year "lease" period, or when the total credits paid reached the amount of 30% of the purchase price (whichever came first), the LOP "shall convert to a Seller Financed Contract" and continue for an additional 13 or 23 years (to the full 20 or 30-year term), depending on how Vision priced the property. Ex. 7 and 8.

93. The conversion point was chosen at the point where the LOP agreement would be treated as a sale by tax authorities because the consumer's purchase would then be considered inevitable and Vision would therefore be required to pay the resulting sales tax.

94. The conversion was set at the point that they thought the agreement would be deemed a sale:

> While by no means a "no brainer" for the consumer, we thought that it seemed like a conservative place to assume that there is a deemed sale. At that point in time, the lease option would trigger a sale and the lease would terminate and the consumer would then own the property subject to a contract for deed (CFD), which is the contract form that the company currently used from day 1.

95. Vision's internal discussions from October 2013 regarding a prototypical transaction make clear that the 7-year LOP agreement masked that Vision was offering disguised seller financing agreements. The conversion point was set at the furthest point that Vision thought it could get away with recognizing the sale to tax authorities.

96. Thus, these agreements were structured and priced to operate as a CFD from their inception:

> [T]he terms in the lease contract are based on a CFD's amortization schedule at 360 months. If the customer hasn't paid enough [*i.e.*, 30% of the purchase price]

> into the 'option' by the 84th month, they convert automatically to a CFD.
>
> On the back end, if we reduce the terms of the CFD (**that the lease terms are based on**) to say, 120 months - the customer pays more into the monthly credit and reaches the 30% mark faster.

(emphasis added).

97. At the 7-year conversion point, the consumer would be in the same position as if he or she had signed a CFD agreement, as a Vision employee acknowledged in an internal email:

> The math on conversion works out perfectly. I think the illusion is in that on the lease option the credit amount never changes, in this case they are actually being credited less than they would on a CFD starting at the 46th month. However, when the 84th month hits and they covert [*sic*] to a 276 month CFD their monthly payment remains the same and their "credit" (principle payment) is now $79 and quickly get above $100.

98. Vision's original consumer talking points explained that they were signing a 30-year agreement that operated as a lease for just the first seven years. Thus, when a consumer asked about the length of a lease term, Vision told its representatives to respond that the "numbers I told you are **structured** over 30 years so the lease covers the first 7 years and the last 23 years will be on a Land Contract." (emphasis in original). Simultaneously, Vision told investors that they could continue to sell LOPs "30yr paper because of the options after reaching the 84th payment is conversion to CFD for the remaining 23 years."

2. LOPs Imposed the Same Repair and Maintenance Obligations on Purported Tenants As Its Seller Financed Mortgages

99. Internally, Vision continued to refer to its business as property sales. One email explained that the purpose of an FAQ was to "help everyone feel more comfortable with the new contract and slightly altered sales process." An attached sample sales script instructed Vision employees to tell consumers that under a LOP "the way you are purchasing is very similar" to a CFD. Vision continued to collect its sales fee at the time that a lease agreement was signed

because, as the company told one investor in April, 2013, "we do consider this a sale from Vision's perspective."

100. Vision's business was still based on transferring the obligation to maintain the property onto the consumer. Accordingly, a typical "lease" agreement provided that:

> LESSEE(s) acknowledges and understands that the premises referenced herein is LEASED in strictly "AS IS/WHERE IS" condition, and it is mutually agreed, by and between the parties hereto, that the LESSEE(s) is solely responsible for maintaining the premises in a safe and non-hazardous condition during the duration of this agreement, and for bringing the building and premises to a habitable condition, compliant with any and all State, County, and City building and premises codes, within a reasonable period of time not exceeding THREE (3) months of the date of execution of this agreement, and maintaining the premises in a good state of repair during the term of this agreement.

Exs. 7 and 8.

101. As nothing of substance was changing with the sales process, Vision simply took the disclosures it previously used to advise consumers buying through a CFD about the obligation to maintain a property and changed the language to reflect a lease, with one employee explaining the lease disclosure was "the same thing as the CFD As-Is Disclosure … but with different wording due to it being a LOP."

102. Not only are these the same repair and maintenance obligations that Vision carried over from its CFD agreements, to the extent the LOPs are leases, Vision and its agreements are in violation of New York's statutory implied warranty of habitability under New York Real Property Law New York Real Property Law § 235-b.

3. Other Provisions of the LOP Agreements are Inconsistent with a Lease and Unconscionable

103. In addition to the illegal transfer of repair and maintenance obligations from Vision to the consumer, the LOP agreements also contained a number of other provisions that are

typically seen in the context of a property sale – if at all – and are inconsistent with typical leases and/or New York landlord-tenant law.

104. First, not only do the LOP agreements require consumers to bring the premises into a habitable condition and up to all "State, County and City building a premises codes", they require them to do so before occupying the property or allowing the property to be occupied. Exs. 7 and 8. This contractually prohibits Vision's consumers – many or most of whom cannot afford to pay for alternative housing while they are fixing up the premises – from moving into the property they are supposedly leasing for weeks or months even if there are minor code violations. This provision is especially unfair and deceptive for those consumers who went on walk throughs of the properties while the utilities, including electricity, were turned off, preventing them from identifying all of the code violations and housing conditions.

105. Second, the LOP agreements contain provisions that permit Defendants and their agents or employees to enter the premises on 24 hours' notice to inspect consumers' performance in bringing the premises up to code and maintaining the premises in a safe and non-hazardous condition, and to unilaterally terminate the agreements and evict the consumers if they deem that performance to be unsatisfactory. Exs. 7 and 8.

106. Third, the LOP agreements contain provisions that require consumers to be responsible for all estate taxes and casualty and general liability insurance, including to the extent the amounts of those payments increase, as if they were the owner of the property. Exs. 7 and 8.

107. Fourth, the LOP agreement provisions make consumers responsible for:

> payment or alleviation of any encumbrances including, but not limited to, all taxes, assessments and/or impositions (including such fees as ground rents, city/county miscellaneous fees as they require, property violations and/or fines levied, water/sewer charges, electrical/gas usage charges,

> garbage fees and property taxes levied, etc.) that may be legally levied or imposed upon said premises **that are delinquent or currently due** at the time of the execution of this agreement without recourse.

(emphasis added). Exs. 7 and 8. These duties and risks, which are consistent with ownership of rather than the lease of property, are illegal and/or unconscionable to place on a tenant.

4. Vision Told Investors and Consumers There Was No Meaningful Distinction Between A LOP and CFD Agreement

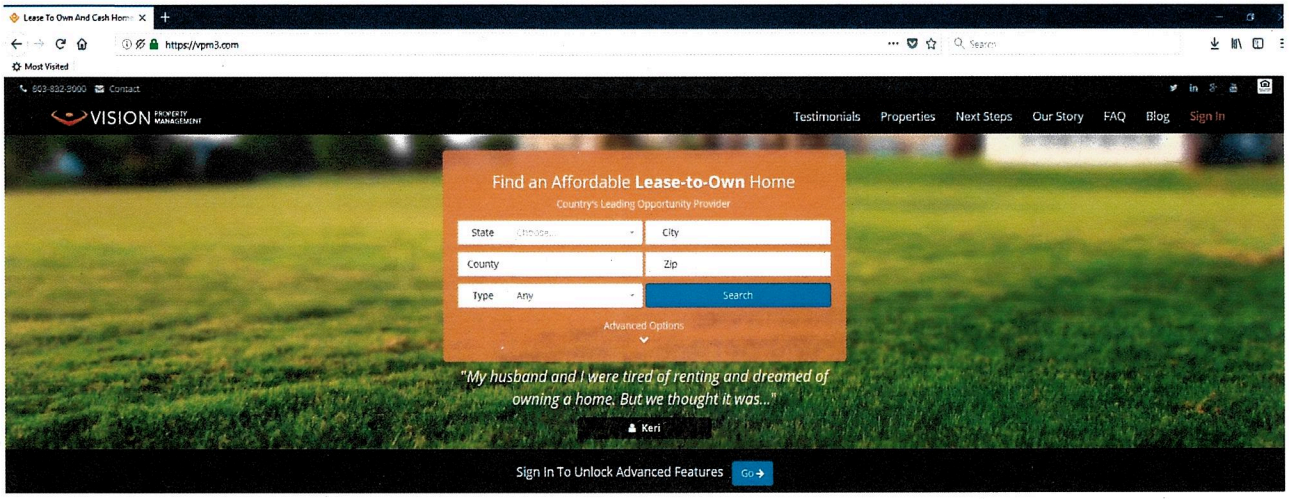
108. Vision repeatedly assured its customers and investors that there was no meaningful distinction between its LOP and CFD form agreements. Vision told one investor "the pricing of each property won't change" with the switch from CFD to LOP. Addressing another investor's questions about how the LOP agreements would be accounted for, Vision's CEO explained that it was "an identical situation as the CFD except we are moving over to the Lease with purchase in certain areas to get better eviction treatment." Despite the transition, "nothing changes on the note buying/selling side either," meaning that Vision would continue to sell its LOPs as performing notes to investors.

109. One consumer, dealing with Vision as it transitioned between the two agreement types, was assured that "there's not much if any of a difference between the two contracts."

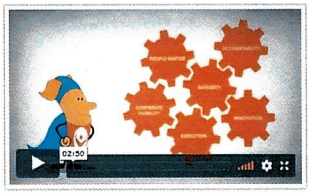
110. In the email exchange discussing the MLO compensation rule, Szkaradek, responding to a follow-up question about the difference between an LOP and a CFD agreement explained it was "[a]lmost nothing. Small idiosyncrasies…. Enough of a difference that it does not classify as a 'sale' but a 'lease.'"

V. 2018-Present – Vision Returns to Contracts for Deed

111. Vision continues to advertise and market Leases with Option to Purchase on its website at www.vpm3.com, including for New York properties.



Benefits of Lease to Own vs. Rent



Learn About Our Story

112. Its homepage prominently advertises "Find an Affordable Lease-to-Own Home." Thus, its website (in both videos and written representations) highlights the purported benefits of participating in its LOP programs, including in representations in both videos and written statements:

- "All of the benefits of renting with the added bonus of building potential future investment value and building credit history."
- "An LOP program helps you build a financial foundation for your family by investing in your future."
- "That [Lease with Option to Purchase] program is structured to ensure that you will be financially stable with your decision."
- "The [Lease with Option to Purchase] program provides the opportunity to build equity in a home without the need for a loan and we offer this program regardless of an individual's credit profile."
- "Over the last 4 years, our unique LOP program has helped thousands of families across America realize that home ownership is an option available to them and is possible. Most of these families were not considering home ownership before they discovered our program."

113. Despite Vision's representations on its website, it appears from updated business records provided to the Department in February 2019 that Vision resumed selling properties, at

least in New York, largely through CFD contracts as of March 2018. Vision does not appear to have offered LOP agreements in New York since March 2018 and internally characterizes its current agreements as "CFDs."

114. Because Vision and the affiliated Defendants remain unlicensed for purposes of originating and funding loans in New York, these new CFD agreements are each in violation of the New York Banking Law. Further, to the extent Defendants now provide disclosures under TILA and Regulation Z for their recent CFD agreements, those disclosures are inaccurate and deceptive because, among other things, they do not state the full rate of interest, including the time-price differential that results from Vision's inflated purchase prices. Finally, because the effective interest rates based on the time-price differential of Defendants' recent CFDs are higher than the relevant thresholds discussed above, Defendants violate the Banking Law §§ 6-l and 6-m each time they fail to comply with their duties under those provisions, including by failing to conduct an analysis to determine that their consumers will be able to fully repay the loans and failing to provide their consumers with the required disclosures for high-cost and subprime loans.

115. Although Vision has not provided the Department with its more recent CFD agreements, information gathered from consumers and other sources indicates that Vision is using a strawman, *i.e.*, a company called National Lending Unlimited ("National Lending"), to process and/or broker its loans.

116. National Lending, however, is not licensed in New York as a mortgage banker or broker and its principal, Farrah Issa, whose name appears on the files reviewed by the Department, is not licensed in New York as an MLO. National Lending is apparently registered as a domestic LLC in the State of Ohio, and its website states that it offers residential,

commercial and unsecured loans in fourteen states located in the Midwest, East Coast and West Coast.

117. While Plaintiffs lack a precise understanding of its role in Vision's business, Vision appears to be using National Unlimited as a front to allow Vision to continue operating its same underlying seller financing model. There are different forms of agreements which still refer to Vision (or one of Vision's affiliated companies) as the seller of the property and still place the right to terminate the agreement in the event of non-performance with Vision. Moreover, these agreements use the same basic terms, including the two-tier purchase price structure that Vision previously used.

118. While Vision now provides some basic disclosures required by federal law, the disclosures fail to properly disclose the relationships between Vision, Vision's affiliated entities and National Unlimited. Moreover, the disclosures falsely suggest that National Unlimited is authorized to engage in mortgage lending in New York.

119. Vision appears to still be misleading consumers about the actual interest rate it charges. One "closing disclosure" document reviewed by the Department advises that the consumer is paying a 10% interest rate. Vision's internal documents, reveal that the rate was 10.303%, meaning that Vision underreported the charged interest rate by almost a third of a percent.

120. In addition, Vision uses the same dual pricing structure it previously used to conceal the rate of interest it charged to consumers. For the transaction involving the "closing disclosure" referenced above during late spring of 2018, Vision offered to sell the property for $34,900. Because the consumer financed the purchase through Vision, Vision increased the purchase price on the property to $49,000. Recalculating the transaction based on the actual

purchase price of $34,900 reveals that the consumer was actually paying a 15.19% interest rate to borrow from Vision, which amounts to a high cost, subprime loan.

121. While Vision has not confirmed the reason for its change in contracts, or produced copies of the agreements, the change coincides with the Department bringing a prior civil action for discovery pursuant to the Department's subpoenas.

VI. Alex Szkaradek Managed, Controlled and Had Full Knowledge of All of Vision's Illegal Conduct

122. As described in paragraphs 14 and 23, above, Alex Szkaradek was a co-founder and is Chief Executive Officer and a Managing Member of Vision Property Management, LLC. In these positions and in his individual capacity, Szkaradek is responsible for Vision's banking and investor relationships, and directed and controlled the Vision Defendants' practices, actions, and conduct.

123. Szkaradek is also a member of the LLC Defendants, either directly or through his ownership in Vision and its affiliates, and either controls them outright or in combination with individual investors.

124. In particular, not only was Szkaradek fully aware that Visions' CFD agreements were in violation of banking laws and regulations at the time that Vision continued to enter into such transactions, he was also directly involved and indeed was a driving force behind Vision's transition from the CFD agreement to the illegal and deceptive LOP agreement in 2013, in part as an effort to improperly evade those regulations.

125. Vision's emails also show that Szkaradek led and directed Vision's transition to the LOP agreement that purported to allow it to illegally lease properties while placing the burden of fixing up and maintaining them on consumers, even though Szkaradek was told this was illegal.

VII. Representative Consumer Experiences

126. The Department interviewed over 40 New York consumers with active, or terminated, Vision contracts. These consumers share many similar and overlapping experiences, and generally confirm that Vision targeted people who are financially distressed, *i.e.* with low income or fixed income, and bad credit.

127. Vision's agreements generally set consumers up to fail, saddling consumers with limited incomes and assets with significant undisclosed interest payments and a substantial amount of home repairs to perform. Notably, not only did Vision and its affiliates knowingly target economically vulnerable consumers, they then undertook almost no analysis of these consumers' ability to make the payments required under the agreements, let alone on top of the often expensive repairs that were required to perform.

128. All of the consumers mentioned that they first discovered Vision by spotting a sign in the window or lawn of a property, or reading a listing on a website, such as Craigslist. Signage for the homes varied by location and property. For example, the sign for a home in Lockport indicated "$1,500 down and $300/month" along with a telephone number for Vision. Signage for a home in Rochester stated "home for rent to own, principal payment of $350/month" and listed a telephone number for Vision. For a property in Ellenville, no prices were listed on the sign but a telephone number was provided. And in Ilion, the sign read "$1,000 down, no credit, bad credit" along with a contact phone number. The Craigslist advertisement for a property in Rochester stated that it was rent to own and provided a telephone number but did not disclose a sales price upfront in the advertisement.

129. Upon calling Vision, consumers were provided with a lockbox code and offered the opportunity to inspect the property during a walk through. While almost all consumers

viewed the properties, many consumers were prevented from identifying critical issues because the properties were not hooked up to utilities, such as water and electricity, at the time of viewing, ostensibly for the purpose of "winterizing" to protect vacant homes in colder weather months.

130. Vision often did not provide detailed written disclosures or inspection reports, so problems not visually spotted on a property viewing were often undisclosed. Most consumers were told the property was being sold "as-is."

131. Despite the fact that Vision's business practice was to obtain detailed inspection reports and information about the property conditions that would need to be repaired to make them legally compliant and habitable, Vision instructed its employees to tell consumers that it had no or limited understanding of property conditions and that it was up to the consumer to identify issues during their walk through.

132. After giving consumers the lockbox code and a chance to view the home, Vision forwarded an application to be completed, including a request for income information and authorization to perform a credit check. According to Vision, "bad credit was ok."

133. Vision's business model depended on low-to-moderate income consumers with limited options agreeing to shoulder heavy homeowner burdens of maintenance and repair of distressed homes in extremely poor condition.

134. Vision was successful in attracting its target clientele and approved consumers who, for example, work seasonally or part time, or else depend upon fixed income such as social security disability, a pension or social security income to support themselves and their family.

135. For larger homes, Vision required families who intended to live together to submit income and credit check information for every adult.

136. Many consumers were not able to live in the properties without first making certain necessary, but costly, repairs.

137. Indeed, some consumers spent up to three or more months bringing the property to a condition where it could be lived in safely and without harm, all the while making monthly payments to Vision, paying for the cost of repairs and paying for alternative housing.

138. Others moved in right away, or after the most essential repairs were made. These families were forced to live in the homes while they fixed damage to walls, floors and, in some instances, replaced windows and water tanks.

139. As additional undisclosed problems arose, consumers would call Vision to say that payments might be late because the consumer could not afford to both make the repairs and make the monthly payment under the Contract for Deed or Lease with Option to Purchase agreements. Vision's response varied from accommodating some requests for additional time, to threatening eviction or foreclosure.

140. Many of the properties had serious undisclosed conditions that rendered the properties unsafe or uninhabitable. These included: water damage, pest infestations, flood damage, furnace issues, shoddy or missing electrical wiring, stripped out copper piping, missing water tanks, missing heaters, mold, asbestos, missing septic systems, and severely damaged, i.e. rotted out, floors, walls and/or roofs. Entire portions of some homes (most commonly, flooded basements) could not be used in certain Vision properties. This posed a safety and health hazard to occupants, including the elderly, young children, teenagers and other adults. Some properties were condemned.

141. At times local code enforcement representatives came to the home in response to complaints and requests. One elderly consumer in Binghamton, New York who living on a fixed

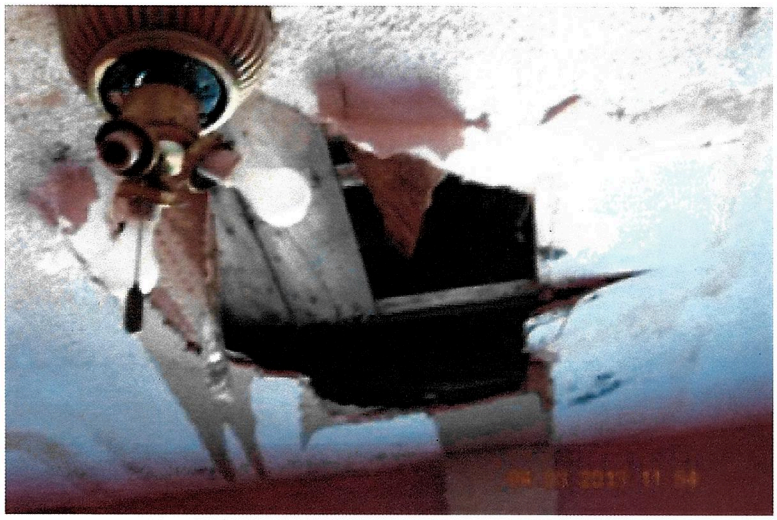
income and supports an adult son spent the winter without heat because there was no furnace. A furnace could not be installed until severe water damage was repaired in the basement which was estimated to cost about $10,000. Further, the consumer's utility bills were sky high because he was forced to heat the home with electric heaters all winter to survive the cold.

142. The following three examples set out representative consumer experiences in greater detail.

Consumer A

143. Consumer A became aware of Vision after seeing a sign that offered to sell the house for "$1.5k down, $300/month."

144. Vision purchased this property in Mach of 2013, located in Lockport New York, for $13,100. Upon inspection by Vision, the property was found to be in "really poor condition, [with] some windows broke[n] or missing … basement filled with so much debris and holes in almost every wall and black mold[,] chimney leaking water (roof top chimney has been wrapped with plastic, dog feces in one bedroom." Ex. 2. The pictures accompanying the internal inspection report underscored the extent of the damage to the property:




04 03 2013 11 54

Id.

145. Vision knew that, in addition to the uninhabitable condition of the property, it was subject to significant back taxes.

146. Vision offered to sell the property for a cash price of $26,500. Consumer A, however, could not afford to purchase the property for cash, opting instead to finance the purchase of the property through one of Vision's LOP agreements. Because Consumer A elected to finance the purchase, which was completed in July 2013, Vision marked up the sales prices to $35,000.

147. Although not disclosed to Consumer A, internally Vision priced the LOP agreement as a seller financing agreement, with Consumer A borrowing the $35,000 sales prices at an interest rate of 7.98%. Accordingly, Vision recorded the transaction, the interest rate and other seller financing terms, including "UPB" and "Note Seasoning" under the property code REIT1-154 as follows:

Property Code	Property State	Property Zip	Selling Price	Down Payment	Original Balance	UPB	Balance Paid	Balance Expected	Balance Ratio	Total Paid	Total Expected	Total Ratio
REIT1-01	NY	12202	$62,500.00	$10,000.00	$52,500.00	$50,201.63	$12,298.37	$12,427.87	100.00%	$50,644.00	$52,604.00	96.15%
REIT1-154	NY	14094	$35,000.00	$1,000.00	$34,000.00	$33,114.34	$1,885.66	$1,946.74	100.00%	$16,457.00	$17,384.00	94.12%
REIT1-449	NY	14769	$56,000.00	$2,000.00	$54,000.00	$47,972.10	$8,027.90	$8,228.83	100.00%	$30,864.00	$31,858.00	93.75%

Property Code	Contract Date	Start Date	End Date	Percent Rate	Monthly Payment	Monthly RE-Tax	Monthly Insurance	Monthly HOA	Monthly Ground-Rent	Monthly Total	Payments Remaining	Payments Total	Note Seasoning
REIT1-01	08/15/2010	09/15/2010	08/15/2040	8.13%	$390.00	$330.00	$37.00	$0.00	$0.00	$757.00	305	360	55
REIT1-154	07/15/2013	08/15/2013	07/15/2020	7.98%	$249.00	$260.00	$21.00	$0.00	$0.00	$530.00	55	84	29
REIT1-449	07/01/2013	08/01/2013	09/01/2019	8.00%	$516.00	$420.00	$33.00	$0.00	$0.00	$969.00	44	74	30

148. Vision used the same cash/financing price structure for this transaction. Pricing the transaction to include the extra capitalized interest shows that Vision was actually charging the consumer interest at a rate of 10.8316%, which is both a high-cost and subprime loan under Banking Law §§ 6-l and 6-m.

149. After signing the LOP agreement, Consumer A spent several months and approximately $10,000 to make necessary repairs. These included::

- fitting water connections;
- fixing the heater;
- adding external doors;
- placing plywood over the existing floors;
- reconstructing the walls;
- replacing lighting;
- restoring the burnt-out kitchen;
- repairing the electricals;
- adding a refrigerator;
- adding a stove;
- repairing the furnace; and
- replacing the completely damaged hot water tank.

150. After moving in to the property, Consumer A discovered that the property required additional work, including:

- new windows;
- insulation;
- improving the efficiency of the water tank and furnace;
- a roof on the garage;
- a new ceiling in all the bedrooms to cover the pipes; and
- measures to control bat/mice infestation.

151. Even after spending $40,000 in total costs for the home, including repairs, Consumer A found more work needed to be done including repairing the upstairs bathroom.

152. Despite the inspection conducted by Vision, Vision did not disclose any details on the condition of the property.

153. Although Consumer A made every monthly payment required, Vision did not pay the underlying property taxes for the property, leading the local government to initiate a tax foreclosure. It was only after the Department intervened on behalf of Consumer A, by contacting Vision, that Vision paid the delinquent taxes and rendered the tax foreclosure moot.

Consumer B

154. In December 2014 Consumer B, a disabled New Yorker living on fixed income, signed a LOP for a home in Madison county

155. Vision knew this property was unsafe and uninhabitable, due to the presence of black mold and asbestos. The internal inspection report for this property stated:

> The black mold problem is out of control at this home and may fail HUD requirements and o[u]r standards. This home would cost more in repairs, mold remediation, remodeling, and asbestos removal than current value of home. I cannot advise putting up this home to be leased out to consumers.

Ex. 4.

156. The pictures attached to the inspection report captured the condition of the property at the time Vision acquired it:

Id.

157. Vision purchased this property for $18,830.71 in approximately September of 2014. Despite the fact that Vision offered a cash sale price of $21,000, the LOP agreement provided that the consumer could purchase the property for $39,000 at any time up until the end of the lease term. At the beginning of the term, the consumer paid the $1,000 "option consideration," and, every month thereafter, a $295.00 "lease payment." The agreement states that the option consideration plus $30.78 of every monthly payment would be credited towards the purchase price.

158. As with Consumer A, Vision recorded the agreement with Consumer B as a seller financing agreement, under the property code K3NY04. Vision priced this transaction internally with an interest rate of 8.604%, but the effective interest rate given the time-price differential was actually 17.6%, which made it both a high-cost and subprime loan under Banking Law §§ 6-l and 6-m.

159. Vision knew that Consumer B was a disabled New Yorker living on fixed income and was not in a financial position to rehabilitate this property. Ultimately the property was destroyed by fire, condemned, and Consumer B was forced to move.

Consumer C

160. Consumer C is a couple who worked as crew trainers at a fast food restaurant with $1,800-2,000 monthly gross income. In March 2016, they agreed to purchase a Vision property located in Rochester.

161. Vision purchased this property for $16,700 and offered to sell it for a cash price of $59,900. Because Consumer C could not afford to purchase the property for cash, they agreed to sign a LOP that marked the purchase price up to $79,900, requiring a $1,750 down payment and a $914 monthly payment going forward. The undisclosed, effective interest rate for this

transaction was 12.954%, which makes it both a high-cost and subprime loan under Banking Law §§ 6-l and 6-m.

162. Although code violations and safety issues were identified during Vision's inspection, the property was rated as requiring minimal repairs to make it habitable. Ex. 9. Nevertheless, this couple estimated spending between $3,000-4,000 in home repairs. The property required the following work:

- a new sump pump in the basement;
- new carpet;
- new gas pipes;
- concrete fixes to the front porch;
- renovating kitchen, living room and bed rooms;
- repairing plumbing issues;
- fixing the water pipes in the basement; and
- treating mold present.

Id.

163. The property was in such bad condition that Consumer C was unable to rid the home of the existing bad smell. Because of the smell, the property was cited for code violations by the City of Rochester.

164. Because of the costs of renovations, Consumer C fell behind on their monthly payments to Vision and was served with eviction papers.

165. In court, Consumer C agreed to vacate the home and in exchange Vision waived collection of back rent. No judgment was issued. On information and belief, Consumer C was not reimbursed for their down payment or the money they invested in repairing the property.

CAUSES OF ACTION

COUNT I - VIOLATION OF CFPA
Deceptive Acts and Practices
(All Defendants)

166. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 165 of this Complaint as if fully set forth herein.

167. The CFPA confers broad powers to prevent "unfair, deceptive, abusive acts or practices" relating to "consumer financial products or services." 12 U.S.C. § 5531(a).

168. The CFPA empowers state attorneys general and bank regulators to bring civil actions to enforce federal consumer law against any company offering consumer financial products or services. 12 U.S.C. § 5552(a)(1).

169. Under the CFPA, an act or practice is deceptive if (1) there is a representation or omission of information that is likely to mislead consumers acting reasonably under the circumstances; and (2) that information is material to consumers. 12 U.S.C. §§ 5531(a).

170. CFPA Section 5536(a)(3) further provides that it is unlawful for "any person to knowingly or recklessly provide substantial assistance to a covered person or service provider in violation of the provisions of section 5531 of this title, or any rule or order issued thereunder, and notwithstanding any provision of this title, the provider of such substantial assistance shall be deemed to be in violation of that section to the same extent as the person to whom such assistance is provided."

171. Sections 1031 and 1036(a)(1) of the CFPA, 12 U.S.C. §§ 5531 and 5536(a)(1)(B), prohibit covered persons from engaging "in any unfair, deceptive, or abusive act or practice."

172. Vision and the LLC Defendants are offering a "consumer financial product or service" and are, therefore, "covered persons" within the meaning of CFPA, 12 U.S.C. § 5481(5)

and (6).

173. In connection with the offering of its CFD and LOP transactions, Vision and the LLC Defendants engaged in deceptive acts or practices by, without limitation:

a. Misrepresenting the nature of their transactions with consumers;

b. Misrepresenting and/or concealing the fact that Defendants were offering financing to consumers and the actual cost of the financing, including the interest rates charged;

c. Impliedly representing to consumers that Defendants had provided them with all legally required disclosures designed to help them understand the terms of their transactions;

d. Impliedly representing to New York consumers that Defendants were properly licensed to make and originate loans in the State of New York when they in fact were not;

e. Misrepresenting to consumers that Defendants could lawfully convert consumers' mortgage transaction into leases if the consumers defaulted;

f. To the extent that their transactions with consumers were leases, misrepresenting to consumers that they were taking the properties as is, that Defendants were not obligated to fix and maintain the properties and that the properties were not subject to the Warranty of Habitability; and

g. Misrepresenting and/or concealing from consumers the full extent of the uninhabitable and dangerous conditions at the properties and the cost of repairs that would be needed to make the properties safe and habitable.

174. These acts and practices are likely to mislead consumers acting reasonably under the circumstances.

175. These acts and practices are material because they would influence the decisions of a consumer acting reasonably under the circumstances.

176. Therefore, these acts and practices constitute deceptive acts and practices in violation of Sections 1031 and 1036 of Dodd-Frank, 12 U.S.C. §§ 5531, 5536.

177. Alex Szkaradek has had significant responsibility for establishing Vision's

policies and practices, and he has had substantial control over and knowledge of Vision's and the LLC Defendants' operations.

178. Alex Szkaradek knowingly or recklessly provided substantial assistance to Vision and the LLC Defendants, covered persons engaged in the above deceptive acts and practices, in violation of the CFPA, 12 U.S.C. §5536(a)(3).

COUNT II - VIOLATION OF CFPA
Unfair Acts and Practices
(All Defendants)

179. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 165 of this Complaint as if fully set forth herein.

180. The CFPA confers broad powers to prevent "unfair, deceptive, abusive acts or practices" relating to "consumer financial products or services." 12 U.S.C. § 5531(a).

181. The CFPA empowers state attorneys general and bank regulators to bring civil actions to enforce federal consumer law against any company offering consumer financial products or services. 12 U.S.C. § 5552(a)(1).

182. Under the CFPA, an act or practice is unfair if (1)(a) the act or practice causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers and (b) such substantial injury is not outweighed by countervailing benefits to consumers or competition. 12 U.S.C. §§ 5531(c).

183. CFPA Section 5536(a)(3) further provides that it is unlawful for "any person to knowingly or recklessly provide substantial assistance to a covered person or service provider in violation of the provisions of section 5531 of this title, or any rule or order issued thereunder, and notwithstanding any provision of this title, the provider of such substantial assistance shall be deemed to be in violation of that section to the same extent as the person to whom such

assistance is provided."

184. Sections 1031 and 1036(a)(1) of the CFPA, 12 U.S.C. §§ 5531 and 5536(a)(1)(B), prohibit covered persons from engaging "in any unfair, deceptive, or abusive act or practice."

185. Vision and the LLC Defendants are offering a "consumer financial product or service" and are, therefore, "covered persons" within the meaning of CFPA, 12 U.S.C. § 5481(5) and (6).

186. In connection with the offering of its CFD and LOP transactions, Vision and the LLC Defendants engaged in unfair acts or practices by, without limitation:

a. Entering into financial transactions with consumers who Defendants knew were unlikely to be able to bear the burden of making monthly payments in addition to the cost of making the properties habitable, safe and legally compliant;

b. Entering into financial transactions with consumers without engaging in a full analysis of their ability to repay those loans while making necessary repairs to ensure their homes were habitable, safe and legally compliant;

c. Structuring their transactions with consumers so that consumers lost any equity they had built up in the property through payments of principal or repairs to the property upon default; and

d. Placing consumers, including young children, the disabled and/or the elderly, into residential properties with known health and safety hazards including, *inter alia*, black mold, asbestos and water damage;

187. These acts and practices caused and are likely to cause substantial injury to Vision's economically distressed and vulnerable consumers by, among other injuries, (i) placing them in homes that are uninhabitable or dangerous, (ii) binding them to illegal and unconscionable one-sided contracts that give them few of the rights and most of the responsibilities of being both a tenant and borrower, (iii) placing them at substantial risk of default and (iv) requiring that they forfeit any sweat or monetary equity that they have built up upon default.

188. These injuries were not reasonably avoidable by Vision's consumers who were not typically knowledgeable about the details of real estate finance, home appraisal or the cost of fixing conditions in homes and who were misled by Defendants about the nature of the transactions and the costs they would incur.

189. The substantial injury that these practices caused to consumers is not outweighed by countervailing benefits.

190. Therefore, these acts and practices constitute unfair acts and practices in violation of Sections 1031 and 1036 of Dodd-Frank, 12 U.S.C. §§ 5531, 5536.

191. Alex Szkaradek has had significant responsibility for establishing Vision's policies and practices, and he has had substantial control over and knowledge of Vision's and the LLC Defendants' operations.

192. Alex Szkaradek knowingly or recklessly provided substantial assistance to Vision and the LLC Defendants, covered persons engaged in the above unfair acts and practices, in violation of the CFPA, 12 U.S.C. §5536(a)(3).

COUNT III - VIOLATION OF CFPA
Abusive Acts and Practices
(All Defendants)

193. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 165 of this Complaint as if fully set forth herein.

194. The CFPA confers broad powers to prevent "unfair, deceptive, abusive acts or practices" relating to "consumer financial products or services." 12 U.S.C. § 5531(a).

195. The CFPA empowers state attorneys general and bank regulators to bring civil actions to enforce federal consumer law against any company offering consumer financial products or services. 12 U.S.C. § 5552(a)(1).

196. Under the CFPA, an act or practice is abusive if, among other things, it "materially interferes with the ability of a consumer to understand a term or condition of a consumer financial product or service," 12 U.S.C. §§ 5531(d)(1), "takes unreasonable advantage of [ ] a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service," 12 U.S.C. §§ 5531(d)(2)(A), or "takes unreasonable advantage of [ ] the reasonable reliance by the consumer on a covered person to act in the interests of the consumer," 12 U.S.C. §§ 5531(d)(2)(C).

197. CFPA Section 5536(a)(3) further provides that it is unlawful for "any person to knowingly or recklessly provide substantial assistance to a covered person or service provider in violation of the provisions of section 5531 of this title, or any rule or order issued thereunder, and notwithstanding any provision of this title, the provider of such substantial assistance shall be deemed to be in violation of that section to the same extent as the person to whom such assistance is provided."

198. Sections 1031 and 1036(a)(1) of the CFPA, 12 U.S.C. §§ 5531 and 5536(a)(1)(B), prohibit covered persons from engaging "in any unfair, deceptive, or abusive act or practice."

199. Vision and the LLC Defendants are offering a "consumer financial product or service" and are, therefore, a "covered person" within the meaning of CFPA, 12 U.S.C. § 5481(5) and (6).

200. In connection with the of its CFD and LOP transactions, Vision and the LLC Defendants engaged in abusive acts or practices by, without limitation:

a. Misrepresenting the true nature of their transactions with consumers, which are subject to the legal requirements for mortgages and, to the extent that the transactions are leases, that Defendants are not obligated to comply with the warranty of habitability;

b. Failing to disclose the true cost of the mortgage loans, including the interest payments;

c. Misrepresenting to consumers, including on Vision's website, that purchasing a Vision home is a sound investment with "all of the benefits of renting;"

d. Entering into loans with consumers who Defendants knew were unlikely to be able to bear the burden of making monthly mortgage payments while expending the resources necessary to make the homes habitable, safe and legally compliant without engaging in an analysis of their ability to repay those loans while making necessary repairs;

e. Taking advantage of consumers' unequal bargaining power by structuring the agreements in an abusive (and misleading, deceptive) manner; and

f. Structuring their transactions with consumers so that consumers lose the equity they have built up to Defendants upon default.

201. Defendants target consumers who they know are economically vulnerable. These acts and practices materially interfere with the ability of such consumers to understand the terms of their agreements with Vision and the LLC Defendants. They also take unreasonable advantage of such consumers' lack of understanding of the risks and dangers that arise from the one-sided and illegal agreements and of consumers' reasonable reliance on Defendants to enter into fair agreements with legal, conscionable terms and place them in homes that would not harm or injure them or their family members.

202. Therefore, these acts and practices constitute abusive acts and practices in violation of Sections 1031 and 1036 of Dodd-Frank, 12 U.S.C. §§ 5531, 5536.

203. Alex Szkaradek has had significant responsibility for establishing Vision's policies and practices, and he has had substantial control over and knowledge of Vision's and the LLC Defendants' operations.

204. Alex Szkaradek knowingly or recklessly provided substantial assistance to Vision and the LLC Defendants, covered persons engaged in the above abusive acts and practices, in violation of the CFPA, 12 U.S.C. § 5536(a)(3).

COUNT IV - VIOLATION OF EXECUTIVE LAW § 63(12)
Fraud
(All Defendants)

205. The New York Attorney General repeats and realleges the allegations in paragraphs 1 through 165 of this Complaint as if fully set forth herein.

206. Executive Law § 63(12) authorizes the New York Attorney General, whenever any person engaged in repeated fraudulent or illegal acts or otherwise demonstrates persistent fraud or illegality in the carrying on, conducting or transaction of business, to file an action to enjoin the continuance of such business activity or of any fraudulent or illegal acts, direct restitution and damages, and obtain other appropriate equitable relief.

207. Executive Law § 63(12) defines "fraud" or "fraudulent" to include any device, scheme or artifice to defraud and any deception, misrepresentation, concealment, suppression, false pretense, false promise or unconscionable contractual provisions.

208. At all relevant times, the Vision Defendants have engaged in carrying on, conducting or transaction of business in New York within the meaning of Executive Law § 63(12).

209. The Vision Defendants have engaged in repeated and persistent fraud by device, scheme or artifice to defraud and deception, misrepresentation, concealment, suppression, false pretense and/or false promise in violation of Executive Law § 63(12) by the practices, including without limitation:

a. Misrepresenting the nature of their transactions with consumers;

b. Misrepresenting and/or concealing the fact that Defendants were offering financing to consumers and the actual cost of the financing, including the interest rates charged;

c. Impliedly representing to consumers that Defendants had provided them

with all legally required disclosures designed to help them understand the terms of their transactions;

d. Impliedly representing to New York consumers that Defendants were properly licensed to make and originate loans in the State of New York when they in fact were not;

e. Misrepresenting to consumers that Defendants could lawfully convert consumers' mortgage transaction into leases if the consumers defaulted;

f. To the extent that their transactions with consumers are leases, Misrepresenting to consumers that they were taking the properties as is, that Defendants were not obligated to fix and maintain the properties and that the properties were not subject to the Warranty of Habitability; and

g. Misrepresenting and/or concealing from consumers the full extent of the uninhabitable and dangerous conditions at the properties, the cost of repairs that would be needed to make the properties safe and habitable and whose responsibility it was to make such repairs;

210. The Vision Defendants also engaged in repeated and persistent fraud in violation of Executive Law § 63(12) by including and attempting to enforce unconscionable contract provisions, including without limitation:

a. Contract provisions that permit Defendants to convert the mortgage transaction into a lease if a consumer defaults, to evict the consumer, and to keep any equity the consumer has built up in the property through payments of principal or repairs to the property;

b. Contract provisions that require consumers to take the property "as is", to maintain the premises in a safe and non-hazardous condition and to bring the premises up to code within a reasonable period of time not exceeding three months of the date of execution of the agreement;

c. Contract provisions that require financially distressed consumers to bring the often dilapidated premises into a habitable condition and up to code before occupying the property or allowing the property to be occupied;

d. Contract provisions that permit Defendants to enter the premises on 24 hours' notice to inspect consumers' performance in bringing the premises up to code and maintaining the premises in a safe and non-hazardous condition, and unilaterally terminating agreements and evicting consumers if they deem that performance to be unsatisfactory;

e. Contract provisions that require consumers to be responsible for all estate taxes and casualty and general liability insurance, including to the extent the amount of payments increase; and

f. Contract provisions that make consumers responsible for payment or alleviation of any encumbrances, taxes, assessments and/or impositions (including fees, property violations, fine, water/sewer charges, electrical/gas usage charges, garbage fees, property taxes levied, etc.) that may be legally levied or imposed or that are delinquent or currently due at the time of the execution of the agreement.

211. Defendants' conduct has significantly harmed consumers in New York, who unwittingly signed CFD and LOP agreements that contained illegal and unconscionable terms that they did not understand and that they would not have agreed to sign had they not been defrauded.

COUNT V - VIOLATION OF GBL § 349
Deceptive Acts and Practices
(All Defendants)

212. The New York Attorney General repeats and realleges the allegations in paragraphs 1 through 165 of this Complaint as if fully set forth herein.

213. GBL § 349(b) authorizes the New York Attorney General, whenever she believes that a person is engaged in or is about to engage in deceptive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service in New York, to bring an action on behalf of the People of New York to enjoin such practices and to obtain restitution.

214. At all relevant times, Vision, the LLC Defendants and Alex Szkaradek have been engaged in business, trade or commerce in New York within the meaning of GBL § 349.

215. The Vision Defendants have engaged in deceptive acts or practices by without limitation:

a. Misrepresenting the nature of their transactions with consumers;

b. Misrepresenting and/or concealing the fact that Defendants were offering

financing to consumers and the actual cost of the financing, including the interest rates charged;

c. Impliedly representing to consumers that Defendants had provided them with all legally required disclosures designed to help them understand the terms of their transactions;

d. Impliedly representing to New York consumers that Defendants were properly licensed to make and originate loans in the State of New York when they in fact were not;

e. Misrepresenting to consumers that Defendants could lawfully convert consumers' mortgage transaction into leases if the consumers defaulted;

f. To the extent that their transactions with consumers are leases, Misrepresenting to consumers that they were taking the properties as is, that Defendants were not obligated to fix and maintain the properties and that the properties were not subject to the Warranty of Habitability; and

g. Misrepresenting and/or concealing from consumers the full extent of the uninhabitable and dangerous conditions at the properties, the cost of repairs that would be needed to make the properties safe and habitable and whose responsibility it was to make such repairs.

216. These acts and practices are material because they would influence the decisions of a consumer acting reasonably under the circumstances.

217. Therefore, these acts and practices constitute deceptive acts and practices in violation of GBL § 349.

218. Defendants' conduct has significantly harmed consumers in New York, who unwittingly signed CFD and LOP agreements that contained illegal terms that they did not understand and that they would not have agreed to sign had they not been deceived.

COUNT VI - VIOLATION OF NEW YORK BANKING LAW ARTICLE 12-D AND EXECUTIVE LAW § 63(12)
Unlicensed Mortgage Lending
(All Defendants)

219. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 165 of this Complaint as if fully set forth herein.

220. Article 12-D of the New York Banking Law established a comprehensive licensing scheme covering "[t]he origination, funding and servicing of residential mortgage loans." In adopting this scheme, the Legislature stated that its purpose is the promotion of "mortgage lending for the benefit of our citizens by responsible providers of mortgage loans and services" and "to protect New York consumers seeking a residential mortgage loan and to ensure that the mortgage lending industry is operating fairly, honestly and efficiently, free from deceptive and anti-competitive practices." N.Y. Banking Law §589.

221. Consistent with this purpose, Section 590(2)(a) provides that "[n]o individual, person, partnerships, association, corporation or other entity shall engage in the business of making mortgage loans without first obtaining a license from the superintendent." Anyone subject to the licensing requirements of Article 12-D is required to comply with all federal and state consumer protection laws that apply to mortgage loans.

222. New York Banking Law § 590(3) authorizes the Superintendent to promulgate rules and regulations to define the terms used and to interpret and implement the licensing regime consistent with the legislatures purpose in enacting Article 12-D.

223. Effective December 12, 2011 the Superintendent amended the regulations requiring licensing for individuals and entities engaged in more than *de minimis* seller financing activity. Following the amendment, the exemption from the licensing requirements of Article 12-D was limited to:

> purchase money mortgages extended by a seller, where the seller is an individual, estate or trust that sells not more than three properties in any 12-month period, provided that the seller has not constructed or acted as a contractor for the construction of a residence being sold.

3 NYCRR Part 39.5(a).

224. Executive Law § 63(12) authorizes the New York Attorney General to seek

injunctive relief and other equitable relief against any individual or entity that engages in repeated or persistent illegal conduct.

225. The Vision Defendants have operated in violation of Article 12-D since December 2011, making four or more seller financed mortgages every year in New York without ever obtaining a mortgage banker license. At a minimum, the Vision Defendants have made approximately 150 illegal, unlicensed mortgage loans in New York since December 2011.

226. Defendants' conduct also constitutes repeated illegal conduct in violation of Executive Law § 63(12).

COUNT VII - VIOLATION OF NEW YORK BANKING LAW § 599-c AND EXECUTIVE LAW § 63(12)
Unlicensed Mortgage Loan Originators
(All Defendants)

227. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 165 of this Complaint as if fully set forth herein.

228. Section 599-c of the New York Banking Law, in compliance with the requirements established under the Secure and Fair Enforcement for Mortgage Licensing Act (the "SAFE Act"), 12 U.S.C. §§ 5101 – 5116, provides that no "individual … shall engage in the business of a mortgage loan originator with respect to any dwelling or residential real property in this tat without first obtaining and maintaining annually a license."

229. The New York Banking Law defines a mortgage loan originator as a person who "takes a residential mortgage loan application" or "offers or negotiates the terms of a residential mortgage" for compensation. N.Y. Banking Law § 599-b(7)(a) and (b); *see also* 12 U.S.C. § 5102(4). The SAFE Act applies to persons who take applications for seller financing agreements. 76 Federal Register at 38474.

230. Executive Law § 63(12) authorizes the New York Attorney General to seek

injunctive relief and other equitable relief against any individual or entity that engages in repeated or persistent illegal conduct.

231. From at least 2011 through the present, the Vision Defendants retained a group of employees whose responsibility was to take applications from consumers applying to Vision for a seller financed mortgage. These employees, who are among Defendant John Does 1-50, were not licensed in New York as MLOs and, accordingly, operated in violation of Article 12-E.

232. Defendants' conduct also constitutes repeated illegal conduct in violation of Executive Law § 63(12).

COUNT VIII - VIOLATION OF NEW YORK BANKING LAW §§ 6-l AND 6-m, 3 CRR-NY §§ 41.3(a) AND 41.4(a) AND EXECUTIVE LAW § 63(12)
Illegal High-Cost and Subprime Loans
(All Defendants)

233. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 165 of this Complaint as if fully set forth herein.

234. New York Banking Law § 6-l, "high-cost home loans," provides additional protections for consumers applying for high-cost mortgage loans. A mortgage loan is deemed to be a high-cost loan if it exceeds by eight percentage points the yield on treasury securities having comparable periods of maturity. N.Y. Banking Law § 6-l(1)(g).

235. The actual interest rate that the Vision Defendants charged to consumers – the interest rate plus the time-price differential it charged – qualified nearly every loan that the Vision Defendants made to New York consumers as a high-cost home loan.

236. Section 6-l prohibits certain conduct in connection with high cost loans, including lending without due regard to repayment ability under Banking Law § 6-l(2)(k). It also requires that a lender making a high cost loan provide a notice advising consumers of the availability of housing counseling, and a list of local housing counselors, that consumers should consult before

taking on a high cost loan pursuant to Banking Law § 6-l(2)(l).

237. New York Banking Law § 6-m, "subprime home loans," provides additional protections for consumers applying for subprime loans. A mortgage loan is defined to be subprime if its "initial interest rate exceeds the comparable rate published by the Federal Home Loan Mortgage Corporation by more than one and three-quarters percentage points."

238. The stated interest rate charged by Vision (the 7%-10% rate stated in Vision's internal documents without the time price differential) made every loan they Vision made to a New York consumer a Section 6-m subprime home loan.

239. Section 6-m requires certain conduct in connection with subprime loans, including mandatory escrow of taxes and insurance and mandatory disclosure of tax and insurance payments pursuant to Banking Law § 6-m(2)(o) and (p), as well as ensuring that the borrower has the ability to repay the loan according to its terms, pursuant to Banking Law § 6-m(4). Pursuant to Banking Law § § 6-m(2)(j), it also requires that a lender making a subprime loan provide a notice advising consumers of the availability of housing counseling, and a list of local housing counselors for consumers to consult before taking on a subprime loan.

240. N.Y. Banking Law § 6-l(3) and N.Y. Banking Law § 6-m(6) further provide that Banking Law §§ 6-l and 6-m, respectively, "shall apply to any person who in bad faith attempts to avoid the application of this section by any subterfuge."

241. Executive Law § 63(12) authorizes the New York Attorney General to seek injunctive relief and other equitable relief against any individual or entity that engages in repeated or persistent illegal conduct.

242. Despite the fact that the vast majority of the approximately 150 home loans it made in New York were high cost loans, the Vision Defendants failed to provide any of the

required disclosures enacted to provide vulnerable consumers with additional protections before accepting a high-cost loan or to engage in a full analysis of their consumers' ability to repay the loans. As a result, Vision Defendants violated New York Banking Law § 6-l and 3 CRR-NY 41.3(a) (NY Consumer Caution and Home Ownership Counseling Notice) and 3 CRR-NY 41.4(a) (NY High Cost Home Loan Payment Disclosure).

243. Despite making approximately 150 subprime home loans in New York, the Vision Defendants failed to engage in mandatory escrow of taxes and insurance, to disclose tax and insurance payments, to make determinations that their consumers' would be able to repay the loans or to provide the disclosures concerning counseling before accepting a subprime loan. As a result, Vision Defendants violated Banking Law § 6-m.

244. Defendants' conduct also constitutes repeated illegal conduct in violation of Executive Law § 63(12).

COUNT IX - VIOLATION OF NEW YORK BANKING LAW REGULATIONS, PART 420.18 AND EXECUTIVE LAW § 63(12)
Failure to Employ Licensed Mortgage Loan Originators
(All Defendants)

245. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 165 of this Complaint as if fully set forth herein.

246. Part 420.18 (3 CRR-NY 420.18(3)(iv)) of the New York Banking Law Regulations requires that all lenders employ only licensed mortgage loan originators.

247. Executive Law § 63(12) authorizes the New York Attorney General to seek injunctive relief and other equitable relief against any individual or entity that engages in repeated or persistent illegal conduct.

248. The Vision Defendants failed to employ any licensed mortgage loan originators despite the fact that the company originated approximately 150 loans in New York.

249. Defendants' conduct also constitutes repeated illegal conduct in violation of Executive Law § 63(12).

COUNT X - VIOLATION OF NEW YORK FINANCIAL SERVICES LAW § 408 AND EXECUTIVE LAW § 63(12)
Intentional Misrepresentation
(All Defendants)

250. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 165 of this Complaint as if fully set forth herein.

251. Section 408 of the New York Financial Services Law makes it unlawful for any person to commit an intentional fraud or make an intentional misrepresentation of material fact with respect to a financial product or service.

252. Executive Law § 63(12) authorizes the New York Attorney General to seek injunctive relief and other equitable relief against any individual or entity that engages in repeated or persistent illegal conduct.

253. The Vision Defendants intentionally misled consumers about the nature of their agreement including through the misrepresentations set out in paragraphs 173 (a), (b), (e) and (f) above.

254. These false and misleading representations constitute misrepresentations to customers and the Department in violation of Section 408 of the Financial Services Law.

255. Defendants' conduct also constitutes repeated illegal conduct in violation of Executive Law § 63(12).

COUNT XI - VIOLATIONS OF THE TRUTH IN LENDING ACT, REGULATION Z, 12 C.F.R. § 1026 et seq. AND EXECUTIVE LAW § 63(12)
Inadequate Disclosures and Failure to Make Ability to Repay Determinations for Residential Mortgage Transactions
(All Defendants)

256. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 165 of this Complaint as if fully set forth herein.

257. Executive Law § 63(12) authorizes the New York Attorney General to seek injunctive relief and other equitable relief against any individual or entity that engages in repeated or persistent illegal conduct.

258. New York Banking Law § 590(5)(c) requires mortgage bankers to "make mortgage loans in conformity with the provisions of this chapter, such rules and regulations as may be promulgated by the superintendent thereunder and all applicable *federal laws* and the rules and regulations promulgated thereunder [ ] consistent with the legislatures purpose in enacting Article 12-D." (emphasis added).

259. At all relevant times, the Vision Defendants have been creditors who regularly extend consumer credit, in the form of seller financed mortgages, within the meaning of the Truth in Lending Act ("TILA"), 15 U.S.C. §§ 1602(f), (g) & (i).

260. Vision's CFD and LOP agreements are closed-end mortgages secured by a dwelling and thus are subject to the requirements under Regulation Z, 12 C.F.R. §§ 1026.43(c)(1), that a lender make a good faith determination at or before consummation of a loan that the consumer will have a reasonable ability to repay the loan according to its terms, including based on verified income, assets, debts and other financial factors.

261. As creditors who regularly extends consumer credit for residential mortgage transactions, Vision Defendants repeatedly failed to engage in such a good faith determination of

consumers' reasonable ability to repay loans according to their terms, in violation of Regulation Z and TILA.

262. Vision's CFD and LOP agreements are also residential mortgage transactions that create a security interest within the meaning of TILA and are subject to the pre-transaction disclosure requirements for such mortgage transactions under the statute, 15 U.S.C. § 1638 and Regulation Z, 12 C.F.R. §§ 1026.18-19 and 1026.37-38.

263. The disclosures required under the statute contain extensive information to help consumers understand the terms and financial structure of the mortgage they are considering, including the loan amount, the annual and total interest rates, the estimated total monthly payment, the total of payments, the finance charge and amount financed, down payments, deposits, closing fees and costs, insurance premiums, taxes, optional services, other costs, fees and charges as well as structural aspects of the loan, such as balloon payments, prepayment penalties, demand features, negative amortization, late payment fees, and variable interest rates.

264. Prior to October, 2015, these disclosures consisted of the Good Faith Estimate and the Initial Truth in Lending disclosures at the time a loan application was submitted, and the HUD-1 Settlement Statement and The Final Truth In Lending disclosures at the time of closing.

265. Since October 2015, the required disclosures have been streamlined to require an initial Loan Estimate that must be given to borrowers within three days of submitting a loan application and a Closing Disclosure, showing the actual terms of the loan, which must be provided at least three days before closing. 12 C.F.R. § 1026.19 and §§ 1026.37-38.

266. As a creditor who regularly extends consumer credit for residential mortgage transactions, Vision Defendants repeatedly failed to timely provide its consumers with these required disclosures, in violation of TILA and Regulation Z.

267. To the extent that Defendants now provide such disclosures since entering into CFD agreements again in 2018, those disclosures are inaccurate, false and/or deceptive because they do not accurately state the finance charge, interest rate, and other required information as a result of Defendants' continued use of inflated purchase prices for non-cash sales and the resulting time-price differential.

268. Defendants' failure to provide the required disclosures constitutes repeated illegal conduct in violation of Executive Law § 63(12).

COUNT XII - VIOLATIONS OF THE TRUTH IN LENDING ACT, REGULATION Z, 12 C.F.R. § 1026 et seq. AND EXECUTIVE LAW § 63(12)
Inadequate Disclosures for Credit Sales
(All Defendants)

269. Plaintiffs repeat and reallege the allegations in paragraphs 1 through 165 of this Complaint as if fully set forth herein.

270. Executive Law § 63(12) authorizes the New York Attorney General to seek injunctive relief and other equitable relief against any individual or entity that engages in repeated or persistent illegal conduct.

271. New York Banking Law § 590(5)(c) requires mortgage bankers to "make mortgage loans in conformity with the provisions of this chapter, such rules and regulations as may be promulgated by the superintendent thereunder and all applicable *federal laws* and the rules and regulations promulgated thereunder [ ] consistent with the legislatures purpose in enacting Article 12-D." (emphasis added).

272. At all relevant times, the Vision Defendants have been creditors who regularly extend consumer credit within the meaning of the Truth in Lending Act ("TILA"), 15 U.S.C. §§ 1602(f), (g) & (i).

273. To the extent Vision's LOP agreements are not residential mortgage transactions

within the meaning of TILA, they are nevertheless credit sales within the meaning of TILA, 15 U.S.C. § 1602(h), and are subject to the disclosure requirements for such transactions under the statute, 15 U.S.C. § 1638 and Regulation Z, 12 C.F.R. § 1026.18, including but not limited to the identity of the creditor, the amount financed, the itemization of the amount financed, the finance charge, the annual percentage rate, the payment schedule, the total of payments, the total sales price, late payments, the fact of the creditor's security interest, insurance premiums excluded from the finance charge, a statement that the consumer should refer to the appropriate contract document for information about nonpayment, default, the right to accelerate the maturity of the obligation, and prepayment rebates and penalties.

274. As a creditor who regularly extends consumer credit, Vision Defendants repeatedly failed to timely provide its consumers with the above required disclosures, in violation of TILA and Regulation Z.

275. Defendants' failure to provide the required disclosures constitutes repeated illegal conduct in violation of Executive Law § 63(12).

COUNT XIII - BREACH OF NEW YORK REAL PROPERTY LAW § 235-b (WARRANTY OF HABITABILITY) PURSUANT TO EXECUTIVE LAW § 63(12)
Rental of Unsafe and Uninhabitable Dwellings (LOP Only)
(All Defendants)

276. The New York Attorney General repeats and realleges the allegations in paragraphs 1 through 165 of this Complaint as if fully set forth herein.

277. Executive Law § 63(12) authorizes the New York Attorney General to seek injunctive relief and other equitable relief against any individual or entity that engages in repeated or persistent illegal conduct.

278. New York Real Property Law § 235-b(1) provides that in every lease or rental agreement for residential premises the landlord or lessor shall be deemed to covenant and

warrant that the premises are fit for human habitation and for the uses reasonably intended by the parties and that the occupants of such premises shall not be subjected to any conditions which would be dangerous, hazardous or detrimental to their life, health or safety.

279. New York Real Property Law § 235-b(2) further provides that any agreement by a lessee or tenant of a dwelling waiving or modifying his or her rights under section 235-b(1) shall be void as contrary to public policy.

280. To the extent that the transactions the Vision Defendants entered into were for leases of residential properties, they were obligated to comply with the provisions of § 235-b and to ensure that the properties were in in habitable condition and fit for human occupation without conditions dangerous, hazardous or detrimental to the life, health or safety of the residents.

281. Despite New York's mandatory warranty of habitability, and despite the documented knowledge of the Vision Defendants of such tenant protections, Defendants engaged in repeated transactions they characterized as leases without repairing and maintaining the properties involved so that they were safe, non-hazardous and fit for human habitation.

282. As set forth above, the properties lacked electrical wiring, plumbing, furnaces, and other material necessities, and contained dangerous and hazardous conditions. At the time that New York consumers took possession, the properties were not in a fit and habitable condition and not fit for human occupation.

283. As a direct and proximate result of the Vision Defendants' breach of implied warranties of habitability, New York consumers have individually and separately been injured and harmed, including in the amount of their investment in repairing and improving their respective homes, in the amount of their payments to Defendants in leasing uninhabitable homes, and for the physical harm, pain, fear, stress, and mental anguish they so wrongly suffered at the

hands of Vision, the LLC Defendants and Alex Szkaradek.

284. Defendants' conduct constitutes repeated illegal conduct in violation of Executive Law § 63(12).

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that this Court grant the following relief:

A. Pursuant to Section 1055 of the CFPA, 12 U.S.C. § 5565, Executive Law § 63(12), New York GBL Article 22-A, § 349, Section 309 of the New York Financial Services Law, and this Court's own equitable powers, grant such preliminary injunctive relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action, and to preserve the possibility of effective relief, including but not limited to an *ex parte* temporary restraining order and a preliminary injunction, including the following:

i. Prohibiting Defendants from acquiring, quoting, or entering into new or amended Contracts for Deed agreements, Lease with Option to Purchase agreements, or any functionally similar agreements with any person for any property located in New York;

ii. Prohibiting Defendants from using, accessing, transferring, or dissipating any assets;

iii. Prohibiting Defendants from removing, altering, or destroying any documents associated with, or related to, Vision's business;

iv. Prohibiting Defendants from moving any Defendants' offices or registered agent for service out of New York State; and

v. Prohibiting Defendants from enforcing any Contract for Deed or Lease with Option to Purchase agreement against any New York consumer, including

taking any action on the basis of said contracts for eviction, foreclosure, forfeiture, or otherwise.

B. Pursuant to Section 1055 of the CFPA, 12 U.S.C. § 5565, the Truth in Lending Act, 15 U.S.C. § 1640(a), Executive Law § 63(12), New York GBL Article 22-A, § 349, New York Financial Services Law § 309, New York Banking Law § 599-n(2), New York Banking Law §§ 6-l and 6-m and New York Real Property Law § 235-b and this Court's own equitable powers, grant an order:

i. Permanently enjoining Defendants, or any person or entity acting on their behalf, from engaging in the deceptive, unlawful, unfair, abusive and unconscionable practices alleged in the Complaint;

ii. Permanently enjoining Defendants, or any person or entity acting on their behalf, from engaging in any form of unlicensed mortgage lending or mortgage origination activity, however the company may characterize or label such business, in New York;

iii. Permanently enjoining Defendants, or any person or entity acting on their behalf, from engaging in any form of residential property rental or leasing, however the company may characterize or label such business, in New York;

iv. Permanently enjoining Defendants, or any person acting on their behalf, from collecting any payment from a New York consumer pursuant to a seller financed mortgage, including LOP agreement, originated by Defendants;

v. Requiring Defendants to reform their seller financed mortgages and/or LOP agreements, however characterized or labeled, to conform with the applicable consumer protection or residential lease requirements;

vi. Awarding restitution and/or actual damages to New York consumers in amounts to be determined at trial;

vii. Ordering, at the option of the consumer, rescission of active Contract for Deed and Lease with Option to Purchase agreements;

viii. Directing Defendants to produce an accounting of profits and to disgorge all profits resulting from the fraudulent and illegal practices alleged herein;

ix. Ordering forfeiture of all principal and interest paid on the CFD and LOP transactions;

x. Ordering the appointment of a receiver, to prevent and remedy any violation of law enforced by the Department;

xi. Ordering a freeze of Vision's assets, including bank accounts, sufficient to ensure restitution to consumers pursuant to Section 1055 of the CFPA, 12 U.S.C. § 5565(a)(2); and

xii. Ordering Defendants to pay up to four times the amount each of their consumers paid them while acting as an unlicensed mortgage lender or mortgage loan originator pursuant to New York Banking Law § 598;

C. Order Defendants to pay a civil penalty;

D. Award Plaintiffs costs plus an additional allowance of $2,000 against each Defendant pursuant to CPLR § 8303(a)(6); and

E. Grant such other and further relief as the Court deems just and proper.

Dated: August 1, 2019
New York, New York

Respectfully submitted,

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