

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

STATE OF IOWA )  
*ex rel.* THOMAS J. MILLER, )  
ATTORNEY GENERAL )  
(99AG25112), )  
) **Plaintiff,** )  
v. )  
LENDER PROCESSING SERVICES, INC., )  
a Delaware corporation; LPS DEFAULT )  
SOLUTIONS, INC., a Delaware corporation, )  
And DOCX, LLC, a Georgia Limited Liability )  
Company, )  
) **Defendants** )

Equity No. CE 73517

PETITION

FILED  
POLK COUNTY, IA.  
2013 JAN 31 AM 8:21  
CLERK DISTRICT COURT

1. Plaintiff, the State of Iowa, *ex rel.* Thomas J. Miller, Attorney General, by Assistant Attorney General Patrick Madigan, brings this action against Defendants LENDER PROCESSING SERVICES, INC.; LPS DEFAULT SOLUTIONS, INC.; and DOCX, LLC, for violating the Iowa Consumer Fraud Act (Iowa Code § 714.16), as follows:

PUBLIC INTEREST

2. The Attorney General believes this action to be in the public interest of the citizens of the State of Iowa and brings this lawsuit pursuant to the Iowa Consumer Fraud Act.

JURISDICTION AND VENUE

3. This action is brought by the State of Iowa *ex rel.* Thomas J. Miller, Attorney General, pursuant to the provisions of the Iowa Consumer Fraud Act, Iowa Code § 714.16 *et seq.*

4. This Court has jurisdiction over the Defendants pursuant to Iowa Code § 714.16 because the Defendants have transacted business within the State of Iowa at all times relevant to this Petition.

5. The Iowa Consumer Fraud Act states that:

The act, use or employment by a person of an unfair practice, deception, fraud, false pretense, false promise or misrepresentation, or the concealment, suppression, or omission of a material fact with intent that others rely upon the concealment, suppression, or omission, in connection with the lease, sale, or advertisement of any merchandise ... whether or not a person has in fact been misled, deceived, or damaged, is an unlawful practice.

Iowa Code § 714.16(2)(a).

6. “The term ‘merchandise’ includes any objects, wares, goods, commodities, intangibles, securities, bonds ... real estate or services.” Iowa Code § 714.16 (1)(i).

7. Defendants were at all times relative hereto, engaged in the sale or advertisement of “merchandise” within the State of Iowa by creating, signing, recording, notarizing, and otherwise placing into the stream of commerce mortgage-related documents in Iowa as well as selling mortgage default services for mortgages held in Iowa.

8. Venue for this action properly lies in Polk County, pursuant to Iowa Code § 714.16(10) because Defendants transact business in Polk County and/or many of the transactions out of which this action arose occurred in Polk County.

#### PARTIES

9. Plaintiff, State of Iowa *ex rel.* Thomas J. Miller, Attorney General (hereinafter “the State”), is charged, *inter alia*, with the enforcement of the Iowa Consumer Fraud Act, Iowa Code § 714.16 *et seq.*

10. Defendant LENDER PROCESSING SERVICES, INC. (“LPS”) is a Delaware corporation with its principal place of business at 601 Riverside Avenue, Jacksonville, Florida 32204.

11. Defendant LPS DEFAULT SOLUTIONS, INC. (“Default Solutions”) is a Delaware corporation with its principal place of business at 601 Riverside Avenue, Jacksonville, Florida 32204. Default Solutions is a wholly owned subsidiary of LPS.

12. Defendant DOCX, LLC (“DocX”) was a Georgia limited liability company and a wholly owned subsidiary of LPS, with its principal place of business in Alpharetta, Georgia. DocX operations were discontinued in 2010.

### **BACKGROUND**

13. LPS provides technology support to banks and mortgage loan servicers for various processes throughout the life of a residential mortgage loan. As the largest provider in the United States of such services, technology and data, LPS has over 30 subsidiaries throughout the nation. Most relevant to this Petition, LPS is a provider of default, foreclosure and bankruptcy technology service platforms for mortgage servicers.

14. DocX is a subsidiary of LPS that was located in Alpharetta, Georgia. DocX ceased operations in the spring of 2010. DocX performed various functions for mortgage servicers, including but not limited to the preparation, execution, notarization and recording of lien releases, assignments of mortgage, and other related documents.

15. Default Solutions provides mortgage servicers with administrative support services in connection with foreclosure and bankruptcy proceedings. Default Solutions is another subsidiary of LPS. Prior to March 2010, Default Solutions also engaged in document execution and notarization practices, including the execution and notarization of mortgage-related documents necessary for foreclosure or bankruptcy proceedings.

16. Currently, Default Solutions provides services for its bank and mortgage servicer clients when a mortgage loan goes into default. These services include, but are not limited to,

foreclosure and bankruptcy management services, services to independent attorneys and trustees, property inspection and preservation services, and other asset management services supporting the foreclosure and bankruptcy processes.

17. In providing default services to its bank and mortgage servicer clients, Default Solutions uses a technology platform called “Desktop” to provide work flow management support.

18. “Desktop” performs a variety of functions and is used, in part, by foreclosure attorneys and bankruptcy trustees to manage those respective processes.

#### **DEFENDANTS’ UNFAIR AND DECEPTIVE ACTS AND PRACTICES**

19. Defendants’ unfair and deceptive acts and practices contributed to and facilitated many faulty foreclosure and bankruptcy processes throughout the nation, including in Iowa. Most of these violations occurred during the height of the foreclosure crisis from 2007 to 2010.

20. When conducting its document execution practices, Defendants employed a high-speed, rote, assembly-line process wherein employees in numerous instances inappropriately signed and notarized documents.

21. Some of those documents contained defects including, but not limited to, unauthorized signatures, improper notarizations, or attestations of facts not personally known to or verified by the affiant.

22. Some of those documents contained unauthorized signatures or inaccurate information relating to the identity, location, or legal authority of the signatory, assignee, or beneficiary or to the effective date of the assignment.

23. Some of those defective documents were recorded in local land records offices or executed with the knowledge that the documents would be filed in state courts or used to comply with statutory, non-judicial foreclosure processes.

24. At some time prior to November 1, 2009, employees and agents of Defendant DocX, were directed by management of DocX to initiate and implement a program under which employees signed documents in the name of other DocX employees, without appropriate authority. DocX referred to these unauthorized signers as "Surrogate Signers."

25. The Surrogate Signers executed documents in the name of other DocX employees without indicating that the documents had been signed by a Surrogate Signer.

26. Notaries public employed by DocX or as agents of DocX completed the notarial statements on the mortgage loan documents that were executed by Surrogate Signers and stated that those documents had been properly acknowledged, signed, and affirmed in their presence by the person whose name appeared on the document, when in fact the Surrogate Signer had signed the name of another person or signed outside the presence of the notary, or both.

27. Concerning Defendant Default Solutions, LPS' Desktop system inappropriately influenced the behavior of foreclosure attorneys, in part by inhibiting communication between the mortgage servicer and its attorney, and by encouraging speed and volume in foreclosure proceedings over accuracy.

### VIOLATIONS OF LAW

#### COUNT I – IOWA CONSUMER FRAUD ACT

28. The State re-alleges and incorporates each and every allegation contained in the preceding paragraphs 1 through 27.

29. Defendants, in the course of selling mortgage-related document execution and default services, have engaged in unfair and deceptive practices that constitute an unlawful practice under the Iowa Consumer Fraud Act, Iowa Code § 714.16(2)(a), by:

- a. Creating, signing, recording, or notarizing documents that contained false, deceptive, or misleading information, assertions, or averments, such as:
  - i. unauthorized signatures;
  - ii. improper notarizations;
  - iii. attestations of facts not personally known to or verified by the affiant; or
  - iv. inaccurate information relating to the identity, location, or legal authority of the signatory, assignee, or beneficiary, or to the effective date of the assignment.
- b. Initiating and facilitating a system by which an attorney or law firm and its mortgage servicer client could not appropriately communicate;
- c. Initiating and facilitating a system by which attorney speed and volume was favored over accuracy in mortgage foreclosure proceedings.

#### PRAYER FOR RELIEF

WHEREFORE, the State of Iowa respectfully requests that the Court enter an Order:

A. Issuing a permanent injunction prohibiting Defendants, their agents, employees, and all other persons and entities, corporate or otherwise, in active concert or participation with any of them, from engaging in unfair, deceptive or misleading conduct, pursuant to Iowa Code § 714.16(7);

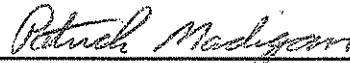
B. Ordering Defendant to disgorge all revenues, profits, and gains achieved in whole or in part through the unfair and deceptive acts or practices complained of herein, pursuant to Iowa Code § 714.16(7);

C. Ordering Defendant to pay a civil penalty of \$40,000 for each and every violation of the Iowa Consumer Fraud Act pursuant to Iowa Code § 714.16(7);

D. Ordering Defendant to pay costs of the court action and reasonable attorneys' fees to the State of Iowa pursuant to Iowa Code § 714.16(11);

E. Granting such other and further relief as the Court deems equitable and proper.

Respectfully submitted,



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