

HONORABLE RICHARD A. JONES

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UNITED STATES DISTRICT COURT, WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

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

Plaintiff,

v.

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

Defendants.

No. 2:08 cv-01520 RAJ

FIRST AMENDED CLASS ACTION  
COMPLAINT

Jury Trial Demanded



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

5 **I. NATURE OF THE ACTION**

6 1. The independence and integrity of the real estate appraisers who determine the  
7 value of home loan collateral is vitally important. Appraisals are intended to provide borrowers  
8 and lenders with an independent and accurate assessment of the true value of the property  
9 underlying a loan.

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

14 3. Countrywide embarked on a corporate strategy to underwrite as many loans as  
15 possible, including loans that were subprime loans. Subprime loans have meant that  
16 Countrywide has made higher profits in interest rates, in origination fees and other fees, and in  
17 packaging the mortgage-backed securities that are at the heart of the financial woes now  
18 plaguing our economy. Countrywide has steered many borrowers into subprime loans when they  
19 have qualified for conventional financing with lower rates.

20 4. Countrywide, through misrepresentations from standardized sales scripts,  
21 standardized training of brokers and loan officers, an incentive program – which included perks  
22 such as all-expense-paid trips to Las Vegas – that have induced brokers and loan officers to push  
23 subprime loans as a matter of standard policy and practice without determining the suitability or  
24 unsuitability of the loan for the borrower, as well as standardized omissions of crucial  
25 information necessary for borrowers to make informed financial choices, and other systemic,  
26 standardized practices employed by Defendants.

1           5.       As set forth in a recent decision by the Honorable Mariana R. Pfaelzer, in *In re*  
2 *Countrywide Financial Corp. Derivative Litig.*, Lead Case No. CV-07-06923, 2008 WL 2064977  
3 (C.D. Cal. May 14, 2008) (hereinafter the “Derivative Action Order”), “The lowest level  
4 [Countrywide] employees report [in the Derivative Action complaint] that the impetus to ‘push’  
5 loans through came from above.... They also allege that the compensation structure promoted  
6 these practices by rewarding Company employees – from executives and management down to  
7 the underwriters – for increasing loan volume, but not for generating quality loans.” Derivative  
8 Action Order, 2008 WL 2064977, at \*11. As the Derivative Action Order also noted,  
9 Countrywide executives concealed this scheme to increase loan volume irrespective of the  
10 suitability of the loans to the borrowers. *Id.* at \*9.

11           6.       As part of its corporate objective to abandon underwriting standards in order to  
12 maximize market share and profits, Countrywide, the largest mortgage lender in the United  
13 States, has engaged in a practice of pressuring and intimidating appraisers into using appraisal  
14 techniques that meet Countrywide’s business objectives even if the use of such appraisal  
15 technique is improper and in violation of industry standards. If appraisers fail to “play ball” as  
16 Countrywide demands, Countrywide places the appraiser on a “Field Review List.” Being  
17 placed on the Field Review List is tantamount to being “blacklisted,” as Countrywide will no  
18 longer accept appraisals from persons and companies appearing on this list unless the appraisals  
19 are accompanied by a “Field Review” from another appraiser. Because loan mortgage brokers,  
20 which hire the appraisers, will not pay for two appraisals, being placed on the Field Review List  
21 means that the appraiser will no longer be retained to review properties on which Countrywide is  
22 the lender. As a practical result, mortgage brokers do not know if Countrywide will be the  
23 eventual lender on a property so mortgage brokers simply will not use blacklisted appraisers –  
24 period. Thus, given Countrywide’s enormous size and clout in the mortgage market, appraisers  
25 appearing on the Field Review List lose substantial revenue – all because they refused to  
26 compromise their integrity and violate their industry standards at Countrywide’s insistence. In



1 essence, being on the blacklist is a virtual death knell for an appraiser who will not do business  
2 the Countrywide way, *i.e.*, illegally.

3 7. When Countrywide finds an appraiser who refuses to violate industry standards,  
4 or who will not accept Countrywide's cut rate fee payments for appraisals, Countrywide uses its  
5 enforcement arm, its subsidiary LandSafe, to cut off the offending appraiser. As part of the  
6 scheme, LandSafe performs a "field review" of the appraisers who submit an offending  
7 appraisal. As part of the Countrywide-LandSafe scheme, LandSafe then completes an appraisal  
8 that comes out where Countrywide or LandSafe wants it to be. The phony appraisals are then  
9 used to complete the loan and the offending appraiser is blacklisted, on the phony grounds the  
10 prior appraisal was inadequately performed. The names of blacklisted appraisers are transmitted  
11 to Countrywide and LandSafe's extensive network of brokers – sounding the death knell for  
12 honest appraisers.

13 8. Defendants' conduct violates, among other laws, the federal Racketeering  
14 Influenced and Corrupt Practices Act. Countrywide and LandSafe have caused substantial  
15 damage to thousands of appraisers across the United States, in addition to distorting real estate  
16 prices in the marketplace. Therefore, this suit is necessary to stop Countrywide and LandSafe's  
17 unlawful behavior and to compensate appraisers that were subject to Countrywide's unlawful  
18 scheme.

## 19 II. JURISDICTION AND VENUE

20 9. This Court has subject-matter jurisdiction over this class action pursuant to the  
21 Class Action Fairness Act of 2005, which confers federal jurisdiction over class actions where,  
22 as here, "any member of a class of plaintiffs is a citizen of a State different from any  
23 Defendants" and the aggregated amount in controversy exceeds five million dollars  
24 (\$5,000,000). *See* 28 U.S.C. §§ 1332(d)(2) and (6). This Court has personal jurisdiction over  
25 the parties because Plaintiff submits to the jurisdiction of the Court and Defendants  
26 systematically and continually conduct business throughout the State of Washington.

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

4 11. Much of Defendants' activities and operations have been performed in this  
 5 District, and Defendants maintain many offices in this District, including at the following  
 6 locations:

8 810 Alabama Street Bellingham, WA 98225	221 A Street, Ste #4 Eastsound, WA 98245	11555 SE 8th St, Ste 101 Bellevue, WA 98004
9 200 112th Ave NE Suite 210 Bellevue, WA 98004	10 Bellevue Place 10500 NE 8th St, Ste 1760 Bellevue, WA 98004	2210 Riverside Drive Suites 110&120 Mt. Vernon, WA 98273
11 1 Front Street, Ste E-2 Friday Harbor, WA 98250	1645 140th Ave NE, Ste A3 Bellevue, WA 98005	1200 Third Ave. Suite 100 Seattle, WA 98101
13 3400 188th St., Suite 101 Lynnwood, WA 98037	2103 NE 129th St, Suite 201 Vancouver, WA 98686	8525 120th Ave NE Kirkland, WA 98275
15 Eastlake Center 2825 Eastlake Ave E Suite 305 Seattle, WA 98102	Westgate North Shopping Center 2631 N Pearl St Tacoma, WA 98407	Westwood Village 2515 SW Trenton Street Suite 103 Seattle, WA 98126
17 Greentree Plaza 305 SE Everett Mall Wy #21 Everett, WA 98208	5500 Olympic Drive Suite H-103 Gig Harbor, WA 98335	Lakewood Pavilion 5700 100th St SW, Ste 550 Lakewood, WA 98499
19 Rainier Professional Plaza 18209 ST Hwy 410 E, #302 Bonney Lake, WA 98391	32001 32nd Avenue S Suite 110 Federal Way, WA 98001	Cooper Point Pavilion 1520 Cooper Pt Rd SW #350 Olympia, WA 98502
21 The Clocktower at Town Center 15021 Main St, Ste C Mill Creek, WA 98012	Vancouver Center North Office Tower 700 Washington St Ste 201 Vancouver, WA 98660	Triangle Landing 1208 Washington Way #140,150 Longview, WA 98632
23 350 North East 4th Ave Camas, WA 98607	The Western Creek Building 5001 25th Ave NE, Ste 201 Seattle, WA 98105	

**III. THE PARTIES**

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

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

14. Defendant Countrywide Bank, N.A. (“Countrywide Bank”) is a national banking association headquartered at 1199 North Fairfax Street, Suite 500, Alexandria, Virginia 22314. Countrywide Bank is a subsidiary of Countrywide Financial and funds loans for Countrywide Financial’s mortgage banking segment.

15. Defendant Countrywide Home Loans, Inc. (“Countrywide Home Loans”) is a New York corporation headquartered at 4500 Park Granada Blvd, Calabasas, California 91302. Countrywide Home Loans is a subsidiary of Countrywide Financial and engages in the business of originating mortgage loans.

16. Collectively, these entities are referred to as “Countrywide.”

17. Defendant LandSafe, Inc. (“LandSafe”) is a Delaware corporation headquartered at 6400 Legacy Drive, Plano, Texas 75024. LandSafe is a subsidiary of Countrywide Financial, and provides loan closing products and services such as credit reports, appraisals, property valuation services and flood determinations.

18. Defendant LandSafe Appraisal Services, Inc. (“LandSafe Appraisal”) is a California corporation headquartered at 6400 Legacy Drive, Plano, Texas 75024. LandSafe Appraisal is a subsidiary of Countrywide Financial, and offers appraisal services in connection with mortgage loan closings.

1 19. Collectively, LandSafe and LandSafe Appraisal are referred to as LandSafe.

2 **IV. SUBSTANTIVE ALLEGATIONS**

3 **A. The Plaintiff**

4 20. Plaintiff Capitol West is an independent appraiser serving the 18 counties in  
5 Idaho. Capitol West has been in business since 2005.

6 21. Capitol West has historically conducted appraisals for area mortgage brokers and  
7 major mortgage lenders such as Wells Fargo, Washington Mutual and others. Due to its  
8 experience and expertise, Capitol West is a “review appraiser” for Wells Fargo, WAMU and  
9 others.

10 **B. The Appraisal Business**

11 22. An appraiser is most commonly retained by a mortgage broker or mortgage lender  
12 in order to value the property that will be used as the collateral to make sure that the property’s  
13 value actually reflects the estimated opinion of market value or refinance value. This helps  
14 ensure that the loan is adequately collateralized in case the borrower defaults.

15 23. Among other things, an appraiser typically performs a physical inspection of the  
16 property and takes inventory of the number of rooms and square footage and assesses the overall  
17 condition of the property. The appraiser also reviews recent property sales that the appraiser  
18 believes are comparable to the property being studied, and these “comps” serve as value  
19 benchmarks with which to compare the proposed purchase price for the property.

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

23 25. Appraisers either work “in house” as part of the broker’s or lender’s own  
24 operations or work as independent contractors. In the latter case, the appraiser builds a book of  
25 business by servicing as many mortgage brokers and lenders in a given geographic region as  
26 possible.

1           26.     These brokers and lenders are the “lifeblood” of the appraiser’s revenue. Without  
2 their business, an appraiser cannot operate.

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

4           27.     Because of the importance of appraisals in the home lending market, state and  
5 federal statutes and regulations require that appraisals be accurate and independent. The  
6 Uniform Standards of Professional Appraisal Practice (“USPAP”), incorporated into federal law,  
7 12 C.F.R. § 34.44, require appraisers to conduct their appraisals independently: “An appraiser  
8 must perform assignments with impartiality, objectivity, and independence, and without  
9 accommodation of personal interests. In appraisal practice, an appraiser must not perform as an  
10 advocate for any party or issue.” USPAP Ethics Rule (Conduct). USPAP rules also provide that  
11 “[a]n appraiser must not accept an assignment that includes the reporting of predetermined  
12 opinions and conclusions.” In addition, each appraisal report must contain a certification signed  
13 by the appraiser, stating that his or her compensation for completing the assignment is not  
14 contingent upon the development or reporting of a predetermined value or direction in value that  
15 favors the cause of the client.

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

25           29.     In 2005, federal regulators, including the Office of Thrift Supervision (“OTS”),  
26 published “Frequently Asked Questions on the Appraisal Regulations and the Interagency

1 Statement on Independent Appraisal and Evaluation Functions.” With regard to appraisal  
2 independence, the document highlighted the importance of independence and condemned  
3 attempts to interfere therewith:

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

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

11 \* \* \*

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

14 *Answer:* Yes, loan production staff may use a revolving,  
15 board-approved list to select a residential appraiser,  
16 provided the development and maintenance of the  
17 list is not under their control. Staff responsible for  
18 the development and maintenance of the list should  
19 be independent of the loan production process. . . .  
Further, there should be periodic internal review of  
the appraiser selection process to ensure that  
20 appropriate procedures are being followed and that  
21 controls exist to ensure independence.

22 30. On its current website LandSafe recognizes the importance of “independent  
23 appraisals”:

24 **Appraiser Independence**

25 The issue of appraiser independence is taken very seriously at  
26 LandSafe. As a company, we are firmly committed to ensuring our  
operational environment enables you to make an independent  
judgment of value for every property you are assigned to appraise,  
absent undue influence. To reinforce our long-standing position on  
this important issue, we recently adopted a newly-stated internal  
policy on appraiser independence, which states:

1 “LandSafe Appraisal Services, Inc., an appraisal management  
2 company, is committed to providing a process through which its  
3 appraisers are able to provide their independent judgment for the  
4 property they are asked to appraise. LandSafe promotes and  
5 requires an operating environment for its appraisers that is  
6 consistent with the vision and requirements established by federal  
7 and state guidelines. The environment is designed to mandate  
8 independence and maintain an appraisal process that is free from  
9 undue influence.”

10 This policy is guided by the Federal Interagency Appraisal and  
11 Evaluation Guidelines (FIRREA) of 1994, as amended. These  
12 guidelines detail the need for the collateral evaluation function in  
13 the real estate loan process to be independent from the loan  
14 production function in federally regulated institutions.

15 Todd Baur, President and Chief Operating Officer, described  
16 appraisal independence for LandSafe as a fundamental principal  
17 that fosters an environment in which property value is assessed in  
18 its purest form.  
19 [<http://www.landsafe.com/landsafe/services/appraisal/index.html>.]

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

21 31. Traditionally, mortgage lenders held a substantial amount of the mortgage loans  
22 that they originated, which incentivized them to ensure that loans were adequately collateralized.

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

1 **1. Countrywide**

2 33. Prior to July 1, 2008 when Countrywide was acquired by Bank of America Corp.,  
3 Countrywide had hundreds of billions of dollars in loan production each year and a residential  
4 mortgage servicing portfolio in excess of \$1 trillion. Its mortgage lending segment has operated  
5 in a variety of sectors, including retail, wholesale, and correspondent lending.

1 34. In addition to over 15,000 field salespersons pursuing customer leads and  
2 originating home loans, Countrywide has sourced loans through a network of over 30,000  
3 contracted mortgage brokers.

4 35. According to its 2007 Form 10-K annual report, Countrywide's retail channel  
5 consisted of its Consumer Markets Division and the Full Spectrum Lending Division. The  
6 Company's Consumer Markets Division ("CMD") generally has originated loans through the  
7 Company's joint ventures. The Company has reached customers through call centers, the  
8 Internet, and retail branches.

9 36. The Company's Full Spectrum Lending Division has focused on new customer  
10 acquisitions through Internet, direct mail and mass media marketing channels and has specialized  
11 in refinance and home equity products.

12 37. Countrywide's wholesale lending channel has underwritten and funded mortgage  
13 loans sourced by mortgage loan brokers and other financial intermediaries.

14 38. In 2004, Countrywide became the largest home mortgage lender in the United  
15 States, built on years of primarily offering customary fixed-rate mortgage loans to borrowers.  
16 By that time, Countrywide, led by its CEO and founder Angelo Mozilo, was intent on elbowing  
17 out competing lenders that tried to horn in on Countrywide's market share by originating more  
18 exotic mortgage loans. As a result, Countrywide's mortgage portfolio – and lending standards –  
19 changed dramatically.

20 39. From mid-2003 onward, Countrywide continually loosened its underwriting  
21 guidelines to the point of nearly abandoning them by 2006. Countrywide's highest-level  
22 managers authored official documents – underwriting matrices and guidelines – such as those for  
23 Countrywide's Corresponding Lending Division ("CLD") that memorialized Countrywide's  
24 systematically lowered lending standards. Numerous Confidential Witnesses ("CWs") from  
25 different levels and involved in different aspects of the company corroborate the nature of  
26 Countrywide's strategy shift. Chairman and CEO Angelo Mozilo's stated goal was to gain 30%

1 market share. To do so, he and other high-ranking executives at Countrywide ordered many of  
2 the lowered standards.

3 40. Underwriting standards changed so much during the class period that, in  
4 December 2007, Countrywide told reporters that billions of dollars of loans in 2005 and 2006  
5 could not have been made under “new” guidelines.

6 41. Whereas in 2003, adjustable rate mortgages (“ARMs”) made up 18 percent of  
7 Countrywide’s portfolio, by 2004, the number of ARM loans increased dramatically, to 49  
8 percent of all loans. Subprime loans rose from 4.6 percent to 11 percent of all loans during the  
9 same period. By offering these loans, and other non-traditional loans like interest-only loans and  
10 reduced documentation, Countrywide was not only able to maintain its marketshare, it also  
11 earned a significant profit off of the higher commissions that borrowers paid and the higher  
12 prices investors were willing to pay for these loans as securitized assets on the secondary market.

13 **2. The Countrywide Brokerage Network**

14 42. Countrywide also has made home mortgage loans arranged by its network of  
15 mortgage brokers. Brokers became authorized to become an approved Countrywide broker by  
16 submitting a Mortgage Broker Application and entering into a “Wholesale Broker Agreement”  
17 with Countrywide. These contracted brokers were provided access to Countrywide’s CLUEST™  
18 computer system, which was designed to allow the mortgage broker to submit loan information  
19 and receive a qualified underwriting decision within minutes. The CLUEST™ computer system  
20 purportedly automated the process of placing loans, and was pre-programmed to push as many  
21 borrowers as possible into risky subprime loans, irrespective of reasonable objective criteria that  
22 would indicate the appropriateness of such loans for a particular borrower.

23 43. Countrywide has incentivized its brokers to push subprime loans by offering  
24 larger commissions on subprime loans than on prime loans, and by offering special perks, such  
25 as all-expense-paid trips to Las Vegas, to brokers who successfully pushed a large number of  
26 subprime loans onto borrowers. Countrywide’s mortgage brokers have induced borrowers to

1 enter into loans via telemarketing and other sales efforts that have been carefully directed by  
2 Countrywide. Those loans are made in reliance on Countrywide's credit-granting policies and  
3 with the participation of Countrywide.

4 44. Countrywide has needed its network of authorized brokers to accomplish its  
5 scheme, as Countrywide could not have reaped huge rewards from the securitization of its  
6 subprime loans without a network of brokers across the country pushing borrowers into as many  
7 subprime loans as they could. For instance, a single broker could never have generated the  
8 volume of subprime loans needed to bundle the loans into securities, which is where the real  
9 money lay for Countrywide. Countrywide has needed thousands of brokers to work with a single  
10 goal in mind – to make as many subprime loans as possible to bundle and sell on the secondary  
11 market, irrespective of their suitability for the borrowers.

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

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

1           **3. Countrywide's Inducement of Brokers to Direct Borrowers Towards**  
2           **Subprime Loans**

3           47. Countrywide's brokers and sales representatives have been rewarded for making  
4 as many risky, high-cost loans as possible, pursuant to the Company's commission structure.

5           48. Even where borrowers qualify for prime loans, Countrywide improperly  
6 incentivizes and encourages its brokers, through financial incentives, to move them into the  
7 subprime category. For example, Countrywide has paid commissions on a subprime loan of  
8 0.50% of the loan's value, while the commission on loans in the next highest category would be  
9 a mere 0.20% of the loan's value.

10           49. In addition, mortgage brokers' commissions would vary on loans in which the  
11 interest rate would increase after a short period with a low teaser rate; the higher the reset interest  
12 rate, the greater the commission earned.

13           50. The addition of penalties to the terms of a loan has also been strongly encouraged  
14 and incentivized by Countrywide. For example, on information and belief, adding a three-year  
15 prepayment penalty to a loan would generate an extra 1% of the loan's value in a commission to  
16 the salesperson. Nowhere, however, was this disclosed to prospective loan applicants.

17           51. Moreover, if a broker convinced a borrower to add a home equity line of credit to  
18 their loan, the broker would earn an extra 0.25% commission.

19           52. A broker's inducing borrowers to take out subprime loans was even rewarded, in  
20 some instances, by perks such as all-expense-paid trips to Las Vegas and other places.

21           53. In addition to the foregoing, Countrywide has utilized computer software which  
22 prevented sales representatives from inputting a borrower's cash reserves when calculating the  
23 type of loan the borrower is eligible for, which has resulted in the sales representative pitching a  
24 higher cost loan. Countrywide has utilized this software in order to increase its own profit on  
25 such loans, since a borrower who has more assets would normally be able to obtain a lower  
26 interest rate on their loan.

1           **4. Subprime Loans are More Lucrative to Countrywide**

2           54. Subprime loans are significantly more profitable for Countrywide than higher-  
3 quality prime loans. As set forth in Countrywide's 2006 regulatory filings, the company's profit  
4 margin on its sales to investors of subprime loans versus prime loans was 1.84% versus 1.07%,  
5 respectively. Two years earlier, in 2004, the profitability of sales of subprime mortgages versus  
6 prime mortgages was even greater, at a rate of 3.64% versus 0.93%, respectively.

7           55. One reason subprime loans are more lucrative for Countrywide is that investors  
8 who bought publicly traded securities backed by mortgages were willing to pay more for loans  
9 with prepayment penalties and interest rates that were going to reset at higher levels, because  
10 such pools of subprime loans were likely to generate a larger cash flow than prime loans that  
11 carried lower fixed rates.

12           56. Indeed, as explained in Countrywide's regulatory filings, the Company relies  
13 substantially on the secondary mortgage market as a source of long-term capital to support its  
14 mortgage banking operations. Most of the mortgage loans that Countrywide produces are sold in  
15 the secondary mortgage market, primarily in the form of mortgage-backed securities and asset-  
16 backed securities. A mortgage-backed security is an asset-backed security whose cash flows are  
17 backed by the principal and interest payments of a set of mortgage loans. Investors are willing to  
18 pay higher prices for securities backed by subprime loans because the prepayment penalties on  
19 these loans locked in the borrower and guaranteed the investor predictable income streams from  
20 the higher interest rates charged in these loans. At Countrywide, subprime loans are generally  
21 pooled into private-label asset-backed securities. During 2006, Countrywide securitized  
22 \$47.7 billion in subprime mortgage and prime home equity loans.

23           57. In addition to higher interest rates on subprime loans and the potential for greater  
24 profits in the secondary mortgage market, subprime loans are more profitable to Countrywide  
25 because of a number of undisclosed features built into the structure of such loans, such as  
26 penalties and fees.

1 58. For example, when a borrower tries to reduce his or her debt on such loans, he or  
2 she must pay a large prepayment penalty. During the class period, Countrywide earned hundreds  
3 of millions of dollars in revenues from prepayment penalties – as much as \$268 million last year  
4 alone.

5 59. Moreover, late charges imposed on borrowers who had trouble making their  
6 payments also provide significant revenues for Countrywide. Revenues from late charges totaled  
7 approximately \$285 million in 2006. Clearly, these payments are used by Countrywide as a  
8 profit-center to increase its bottom line while causing its customers to pay increased and  
9 improper payments to it.

10 **5. Defendants' Lending to Borrowers Who Cannot Afford Their Loans**

11 60. Countrywide has written policies providing that it will make loans to borrowers  
12 even where the monthly loan payment will leave very little disposable income for the borrower  
13 to live on.

14 61. For example, one Countrywide manual states that a borrower with a family of  
15 four may obtain a loan even if the monthly mortgage payment left the family with only \$1,000 to  
16 live on for the month. A single borrower could obtain a loan whose payment left him only \$550  
17 for food, clothing and other expenses for the entire month.

18 62. Sales representatives for Countrywide have even been permitted to lend \$500,000  
19 to borrowers with a credit score of 500, even if the borrower made late payments on a mortgage  
20 in the prior year, had filed for bankruptcy or had been in risk of foreclosure, so long as the loan-  
21 to-property-value ratio was no more than 70 percent.

22 63. Countrywide also has employed various lending policies to further its deceptive  
23 scheme and to boost its volume of loans, including (a) significantly easing its underwriting  
24 standards; (b) encouraging borrowers to encumber their homes up to 100% (or more) of the  
25 assessed value; and (c) placing borrowers in “piggyback” second mortgages in the form of higher  
26 interest rate home equity lines of credit, while obscuring their total monthly payment obligations.



1           64. Countrywide also increased its use of low- or no-documentation loans – including  
2 allowing for no verification of stated income or stated assets or both, or no request for income or  
3 asset information at all. Stated income loans also encouraged the overstating of income by loan  
4 brokers and officers.

5           65. An example of the kind of risky and inappropriate loans Countrywide has offered  
6 is one of its most commonly issued products, the “option ARM loan” or a “pay option ARM.”

7           66. Borrowers with bad credit could easily obtain a pay option ARM loan for as much  
8 as 45% of their gross annual income.

9           67. As is described above, borrowers are given three payment options to choose from  
10 each month under the pay option ARM loan arrangement, as is reflected on their monthly  
11 statement from Countrywide: (1) they can make what Countrywide calls the “minimum”  
12 monthly payment, which is actually less than the amount of interest owed on the loan; (2) they  
13 can make a middle-tier payment called the “interest only payment” in which they pay only the  
14 interest due for that month; or (3) they can make the highest-tier payment, the “amortized  
15 payment,” which encompasses both the interest due and a portion of the principal of the loan.

16           68. Because they are paying less than the amount of interest they owed on their loans,  
17 borrowers who opt each month to make the minimum monthly payment actually see the principal  
18 amount of their loan *increase* over time, even though they are making what Countrywide  
19 expressly tells them is the “minimum” monthly payment required on the loan. This is known as  
20 “negative amortization.” Countrywide and its brokers do not explain this to borrowers before  
21 they enter into these loans, but rather just tell them that they are only required to make a low  
22 monthly minimum payment on their loan. Borrowers enter into these loans believing that they  
23 are “interest only” loans or that the payments are low for other reasons. Thus borrowers enter  
24 into loans that are, in fact, fundamentally different from what they are told, in the belief that they  
25 are getting a good bargain.

26

1           69. Further, built into the pay option ARM loan is an obligation that, if the amount  
2 owed ever increases to an amount equaling 115% of the original loan amount, the entire amount  
3 becomes “recast” and resets the monthly payments to a significantly higher amount, allowing for  
4 full repayment of the principal and interest within the time remaining on the loan. Since the  
5 minimum payment was less than the interest due, and since Countrywide’s underwriting criteria  
6 provide for minimum payments at such a high percentage of gross income, the amount owed was  
7 certain to increase for borrowers, and the recast percentage was likely to be hit. Accordingly,  
8 many borrowers have defaulted on their pay option ARM loans.

9           70. Countrywide actively promoted the pay option ARM loan to borrowers,  
10 regardless of their income or credit ratings, as evidenced by an internal Countrywide sales  
11 document explaining what type of borrower would benefit from such a loan – “Anyone who  
12 wants the lowest possible payment!” In other words, Countrywide pushed the pay option ARM  
13 loan on everyone they could, irrespective of whether it was actually a favorable alternative over  
14 other types of loans for a given borrower. Countrywide’s marketing strategy had the desired  
15 effect. Between 2004 and 2005, Countrywide’s origination of pay option ARM loans increased  
16 from 6% to 19% of all loans originated by the Company. In 2006, Countrywide was the leading  
17 originator of pay option ARM loans, originating \$70 billion in pay option ARM loans – nearly  
18 double of that of its closest competitors. Countrywide earned gross profit margins over 4% on  
19 pay option ARM loans, as opposed to 2% on FHA-backed loans.

20           71. Commentators have noted that products such as Countrywide’s pay option ARM  
21 are among the most troublesome mortgage products in the market. For example:

22                   For some borrowers, option ARMs are ticking time bombs. The  
23                   loans are tempting because they give borrowers several payment  
24                   choices each month, including a minimum payment that lets them  
25                   pay no principal and only part of the interest normally due. When  
26                   borrowers choose that option, the loan balance expands – a  
                    phenomenon known in the mortgage trade as “negative  
                    amortization.”

1 After a specified period, often five years, borrowers must start  
 2 repaying the principal and meeting the full interest payments. That  
 3 can cause monthly payments to more than double. If the balance  
 4 outstanding gets too high – the ceiling generally is 110% to 125%  
 5 of the original amount borrowed – borrowers can face sharply  
 6 higher payments even sooner.

7 James Hagerty and Ruth Simon, *Option ARMs Emerge as Home-Loan Worry*, The Wall Street  
 8 Journal (April 19, 2007), available at:

9 <http://www.realestatejournal.com/buysell/mortgages/20070419-hagerty.html> (accessed  
 10 November 6, 2008). Pay option ARM mortgages are extremely problematic and have  
 11 notoriously led to increased mortgage loan defaults among borrowers. *See, e.g.*, Kathleen  
 12 Pender, *Hazards of Option ARMs*, San Francisco Chronicle, p. D-1 (June 1, 2005).

## 13 **6. Countrywide Corrupts the Appraisal System**

### 14 **a. Countrywide's inflated appraisals**

15 72. According to Mark Zachary, a former Regional Vice President of Countrywide's  
 16 joint venture with KB Home, Countrywide Mortgage Ventures, LLC, the Company blatantly  
 17 ignored its underwriting policies and procedures. In September 2006, Mr. Zachary informed  
 18 Countrywide executives that there was a problem with appraisals performed on KB Home  
 19 properties being purchased with Countrywide's loans. KB is one of the largest homebuilders in  
 20 the nation. According to Mr. Zachary, Countrywide executives knew that appraisers were  
 21 strongly encouraged to inflate appraisal values by as much as 6% to allow homeowners to "roll  
 22 up" all closing costs. According to Mr. Zachary, this practice resulted in borrowers being  
 23 "duped" as to the values of their homes. This also made loans more risky because when values  
 24 were falsely increased, loan-to-value ratios calculated with these phony numbers were  
 25 necessarily incorrect.

26 73. Mr. Zachary also believed this practice misled investors who later purchased these  
 loans through securitizations because these investors were not made aware that the actual home  
 values were less than the inflated appraised values. According to Mr. Zachary, the inflated



1 appraised values put buyers “upside down” on their homes immediately after purchasing them;  
2 that is, the borrowers immediately owed more than their homes were worth. Thus, the buyers  
3 were set up to be more susceptible to defaulting on their loans. This practice also put  
4 Countrywide at risk because it was unaware of the true value of the assets on which the  
5 Company was loaning money.

6 74. Mr. Zachary brought his concerns to executives of the Countrywide/KB Homes  
7 joint venture, as well as Countrywide executives in Houston, the Company’s Employee Relations  
8 Department and the Company’s Senior Risk Management Executives.

9 75. According to Mr. Zachary, the Company performed an audit investigating these  
10 matters in January 2007, and the findings of the audit corroborated his story. According to  
11 Mr. Zachary, the findings of this audit were brought to the attention of Countrywide executives.

12 76. On information and belief, the inflated appraisal practice was not limited to KB  
13 homes but was a common feature of many loans. As such it was essential to defendants’ scheme  
14 that there be a pool of appraisers who would play ball – *i.e.*, inflate their appraisals.

15 **b. The blacklisting of honest appraisals**

16 77. Part of Countrywide’s scheme to increase market share and to make many loans  
17 as possible involved the corruption of the appraisal process. Countrywide wanted appraisals that  
18 supported the loans it wished to make.

19 78. To accomplish this objective, Countrywide has engaged in a pattern and practice  
20 of pressuring appraisers to write an appraisal designed to have the loan underwritten even if the  
21 appraisal violates USPAP. In other words, Countrywide is more interested in having the  
22 property pass appraisal than it is in determining whether an appraisal is fair and accurate and  
23 prepared in accordance with industry standards. If an appraiser does not “play ball” and produce  
24 a report affirming the property value or parameters that Countrywide expects or wants, it places  
25 the appraiser on its “Field Review List,” or some list of exclusion (“Exclusion List”).  
26

1 79. The Field Review List or Exclusion List is a Countrywide database containing the  
2 names of appraisers whose reports Countrywide will not accept unless the mortgage broker also  
3 submits a report from a second appraiser. The practical effect of being placed on the Field  
4 Review List is to be “blacklisted” – no mortgage broker will hire an appraiser appearing on the  
5 Field Review List to review a property sale in which Countrywide will be the lender because the  
6 broker simply will not pay to have two appraisals done. Instead, the broker will simply retain  
7 another appraiser who is not on the Field Review List.

8 80. Thousands of appraisers have been placed on the Field Review List. Countrywide  
9 and LandSafe have used the Field Review List or Exclusionary List for more than four years.

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

22 82. The chilling effect of the blacklist also affects loan appraisals which may be in the  
23 future submitted to Countrywide. That point effectually taints the appraisals for virtually every  
24 loan application that originates with a mortgage broker. Because Countrywide is so huge, all or  
25 a substantial portion of these loans may wind up being submitted to Countrywide. Since the  
26 broker can’t rule out that Countrywide may be the ultimate lender, and since they know from the

1 blacklist that a field review will be required if they choose a blacklisted appraiser, they won't use  
2 Plaintiff or others on the blacklist for the appraisal because there exists the real possibility of the  
3 requirement of a field review, coupled with doubling the appraisal cost to the broker's applicant  
4 and the working knowledge that LandSafe will knock down the appraised valuation, thereby  
5 inhibiting approval of the loan.

6 83. LandSafe is a "captive" puppet of Countrywide, either by virtue of ownership or  
7 economic power as its largest client, such that LandSafe knows what Countrywide wants to  
8 accomplish with its blacklist and facilitates Countrywide's scheme by attacking the appraisals of  
9 persons on the list and undercutting valuations, whether warranted or not.

10 84. Plaintiff Capitol West has been subjected to the Countrywide scheme.  
11 Countrywide loan officers pressured Capitol West to increase valuations or vary from the  
12 USPAP on appraisals that Capitol West provided for three separate loan transactions.

13 85. Capitol West refused to succumb to Countrywide's pressure to compromise its  
14 integrity and independence and refused to commit fraud and violate federal and state laws. Its  
15 reward? Countrywide placed Capitol West on the Field Review List. Capitol West learned this  
16 from a Countrywide employee.

17 86. Capitol West does not stand alone. The following are examples of experiences of  
18 other appraisers, each of whom were appraisers who did business with Countrywide or LandSafe  
19 and were blacklisted by Countrywide and/or LandSafe:

20 (a) Confidential Witness 1 ("CW 1") reports as follows:

21 I created an appraisal for Countrywide and they made a loan of  
22 \$420k on 4/21/2005. Later, there was a second independent  
23 mortgage placed on the property for \$140k on 7/7/2005 by JP  
24 Morgan Chase.

25 Subsequently Countrywide, while packaging loans to sell, had a  
26 review performed at \$400k +/- on my appraisal of \$700k. The  
appraised home was in Canyon Lake where 90% are speculative  
and custom homes. I was placed on their Blacklist without notice.

1 One of my clients notified me of this action and I immediately  
2 called and spoke with Dorothy Lim of Countrywide 4/6/2006. I  
3 was told I could appeal the decision, however, I thought my  
4 appraisal was "slightly excessive," again slightly, with the review  
5 value being at the bottom of the market.

6 I have never had any previous problems with any lender, state or  
7 other governing body in the industry. I chose to take my penance,  
8 wait for a year, further my education to Certified status, get FHA  
9 approved and try again. I have since accomplished this.

10 I called and spoke to Dorothy 10/15/2008 and was denied removal  
11 from the blacklist. Again I was told I could appeal just as if it was  
12 4/6/2006 all over again.

13 (b) Confidential Witness 2 ("CW 2") went from a Première  
14 appraiser after completing about 1,400 appraisals for  
15 LandSafe/Countrywide to the Review/Black List. There were  
16 about 4 appraisals that did not make value and were audited by  
17 LandSafe Quality Control Board saying they were excessive. I  
18 tried to communicate with the review appraiser with no success.  
19 However during the conversation with the review appraiser on one  
20 of the appraisals under review, he stated my appraisal was not  
21 much different than the field review and couldn't understand why  
22 it was still under review. When the appraisal did not make the  
23 value they would call many times and ask if there was anyway to  
24 up the value as they were saying that they weren't applying any  
25 pressure but could I please re-look at the comps and try to up the  
26 value.

(c) Confidential Witness 3 ("CW 3") was taken off  
Countrywide's appraiser list due to a review by an appraiser who  
was biased in the property being reviewed. The property was a  
NEW manufactured home which sold for \$83,000. The review  
came in at \$46,000. The reviewer used sales which were  
foreclosure sales and ages ranging from 2 to 7 years old, and  
saying the sales were in similar condition to that of a NEW home.  
A NEW car is not the same as an OLD car. The reason for the  
review was due to the property being foreclosed. My Sale 1 is a  
property in the same subdivision, an identical home as the subject,  
sold for \$86,500 and financed by Countrywide.

It appears to be a situation of POOR underwriting or a situation  
where the homeowner fell on bad times for some reason.

However, a review appraisal has put me on a blacklist. I have not  
been able to receive work from Countrywide since 2002. I am a  
current member of the Appraisal Institute and in the process of  
working towards my SRA designation. I have been appraising  
since 1983.



1 (d) Confidential Witness 4 (“CW 4”) has been a Countrywide  
2 “preferred” appraiser for many years and was doing a considerable  
3 amount of work for LandSafe/Countrywide until 12-18 months  
4 ago. Then the work pretty much stopped coming in. I am fully  
5 aware that Countrywide/LandSafe is still ordering work from other  
6 appraisers in this area who aren’t on the “preferred” list, who have  
7 many less years of experience than I, and are known for “hitting  
8 the number the lender wants” without pointing out any negative  
9 things.

6 So yes, after being an appraiser for 32+ years, I am disheartened by  
7 Countrywide’s dishonest business practices. Because of their size  
8 and appraisal management company, Countrywide has  
9 purposefully chosen to make loans using poor quality appraisals  
10 completed by appraisers who give them what they want to hear.  
11 And I believe they used their in-house polling system to identify  
12 the specific appraisers that would – and would not – get work.

10 **7. LandSafe Also Blacklists or Excludes Honest Appraisers**

11 87. LandSafe also created its own “blacklist” or “Exclusion List” that applied to work  
12 on Countrywide loans. An appraiser from Florida, Confidential Witness 5 (“CW 5”), describes  
13 his experience with LandSafe as follows:

14 I was “black listed” from Countrywide because I was unwilling to  
15 comply with their underwriting guidelines which would have  
16 caused me to present appraisals with misleading and non-credible  
17 results. I have been doing appraisals for Countrywide for Decades,  
18 and was the VERY FIRST EDI approved Landsafe appraiser in  
19 Florida in the early '90s.

18 According to local Countrywide Mortgage offices, I was deemed  
19 “uncooperative” by Landsafe, and was blacklisted. The local  
20 branches protested, to no avail.

20 This has devastated my business, as nearly all local mortgage  
21 brokers broker to Countrywide. If they continue to use me, a  
22 mandatory review appraisal is required at an additional cost to the  
23 broker of \$350! (though Landsafe only pays the appraiser \$150!!).

22 I was informed of my removal, after a review of 7 appraisals I had  
23 completed (out of about 50 in a several month period). Oddly  
24 enough, each of the appraisals reviewed came in below sale price,  
25 or below LandSafe’s “target” value (what they say is a USPAP  
26 legal “qualifying value”!!!)

25 Lastly, I attempted to report this to a supposedly separate  
26 “Appraiser Independence Hotline” at Landsafe, only to have the

1 same individual who reviewed the appraisals answer the phone!  
2 How is that for appraiser independence!

3 88. Another example comes from Confidential Witness 6 (“CW 6”):

4 I was asked to reconsider appraisals that had been completed. A  
5 Landsafe representative would call and indicate that based on other  
6 “sales” that the value should be changed. The “sales” turned out to  
7 be properties in an AVM (Automated Valuation Model). These  
8 were not actual closed sales but were properties which the AVM  
9 applied to them. When I asked them to provide these “sales” they  
10 would not.

11 **8. The “Play My Way on Fees or Get Blacklisted” Scheme**

12 89. Another aspect of the scheme hatched by Defendants involved a way to increase  
13 profits at the expense of the consumer. As part of the Blacklist process, LandSafe would  
14 approach appraisers and demand that they drastically reduce the appraisal fee. If an appraiser did  
15 so, LandSafe did not reduce the fee to the borrower. The borrower’s HUD-1 would still list the  
16 charge in the full amount of the appraiser’s charge without reflecting the reduction in the actual  
17 cost. By listing the full \$400 fee as an “appraisal fee” on the HUD-1 when the actual cost was  
18 \$175 or so, Countrywide violated RESPA by charging a fee while providing no service.

19 90. Appraisers who refused to reduce their fees were blacklisted or suddenly subject  
20 to field reviews.

21 **E. The Impact of Countrywide’s Unlawful Conduct**

22 91. Any appraiser placed on Countrywide’s Field Review List will lose substantial  
23 revenue. Indeed, many appraisers on Countrywide’s Field Review List struggle to stay in  
24 business.

25 92. Since appearing on the Field Review List, Plaintiff Capitol West’s business has  
26 declined and revenues have plummeted. Indeed, Capitol West is now losing \$8,000 in revenue  
per month as a direct and proximate result of being placed on the Field Review List. An  
employee of Countrywide has advised Capitol West that it will remain on the Field Review List  
for at least a full year. The practical result of the blacklist is that mortgage brokers simply will

1 not use Capitol West on many transactions because the broker does not know if Countrywide  
2 will be the lender at the outset.

3 93. The Mortgage Brokers who did business with Defendants were willing  
4 participants in the enterprise as evidenced by the following example from Confidential Witness 7  
5 (“CW 7”):

6 I never spoke with anyone from Countrywide, all pressure came  
7 from Mortgage Brokers. This started early 2005.... Several times  
8 I was told to disregard a certain negative aspect of the subject  
9 (location, condition) and retake photos either from a different angle  
10 or to remove certain pictures and wording from a report. As noted  
11 above, all communications were through different Mortgage  
12 Brokers.... I had heard of this, and thought it meant that any work  
that was turned in by myself or anyone else in my company would  
have to undergo a field review. Which in turn would mean the  
broker I was working with would then have to pay for this review.  
There were several times that I offered to pay for the review in  
hopes that Countrywide would see the quality of my work and take  
me off this list.

13 94. The impact goes beyond damage to Plaintiff and the proposed Class. Indeed,  
14 Countrywide’s actions denigrate the integrity of the appraisal process on a wide scale, as inflated  
15 appraisals become “comparables” used in other appraisals, leading to layers of overvaluations  
16 and distorting prices in the marketplace.

17 **F. Governmental Actions Relating to Countrywide’s Practices**

18 95. Within the past year, Countrywide and its officers have come under tremendous  
19 scrutiny for the practices alleged in this Complaint.

20 96. On or about October 18, 2007, the U.S. Securities & Exchange Commission  
21 began informally investigating the insider stock sales of Countrywide’s Chief Executive Officer,  
22 Angelo Mozilo. Mr. Mozilo – who was paid \$142 million last year and was the seventh highest  
23 paid CEO in the United States – has sold nearly \$300 million in Countrywide shares since 2005  
24 pursuant to the Company’s prearranged selling program. Further, after October 2006, when  
25 Mr. Mozilo put a new selling program in place at Countrywide, he raised the number of shares  
26 executives could sell, from 350,000 shares in October 2006, to 580,000 shares in February 2007,

1 when shares were at a high of \$45.03 per share. These stock programs provided an incentive for  
2 the Defendants, and the top officials of Countrywide, to develop and implement the scheme  
3 alleged in this Complaint.

4 97. Additionally, within the past several months, Countrywide and its officers have  
5 been sued by multiple state attorneys general (the “AG Actions”).

6 98. On October 6, 2008, in response to criticism from regulators and advocacy  
7 groups, Countrywide announced a multi-state settlement of the AG Actions, pursuant to which it  
8 would offer certain prospective relief, including a limited loan modification program.

9 99. As is noted above, the Derivative Action that was brought against Countrywide,  
10 in which it was alleged that Countrywide essentially abandoned its underwriting standards,  
11 recently survived a motion to dismiss, in an opinion in which Judge Mariana R. Pfaelzer found a  
12 “strong inference of a Company-wide culture that, at every level, emphasized increasing loan  
13 origination volume in derogation of underwriting standards.” Derivative Action Order, 2008 WL  
14 2064977, at \*10. The Court noted that numerous confidential witnesses, mostly former  
15 employees of Countrywide, who had been quoted in the complaint presented a “striking[]” story  
16 of “rampant disregard for underwriting standards” at Countrywide in the interest of pushing  
17 through as many loans as possible. *Id.* This scheme of pushing quantity over quality, including  
18 a lack of any analysis of reasonable criteria to ascertain the appropriateness of the loans  
19 Countrywide issued to its borrowers, was uniformly concealed from borrowers, just as it was  
20 concealed from the public. *Id.* at \*9 (holding that plaintiffs had presented a “cogent and  
21 compelling inference” that the defendant Countrywide executives had misled the public about  
22 the “rigor of Countrywide’s loan origination process, the quality of its loans, and the Company’s  
23 financial situation – even as they realized that *Countrywide had virtually abandoned its own loan  
24 underwriting practices*”) (emphasis added).



1 **V. CLASS ACTION ALLEGATIONS**

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

5 **A. Class Definition**

6 101. Plaintiff brings this action on behalf of itself and on behalf of all certified  
7 appraisers nationwide who have been blacklisted or otherwise outed as an approved appraiser by  
8 Countrywide and/or LandSafe. Excluded from the proposed Class are any individual or  
9 corporation employed or controlled by Countrywide and/or Landsafe, and any person or entity  
10 related to it, and all governmental entities and any appraiser who has been delisted by any  
11 regulatory authority or who is not a certified or licensed appraiser.

12 **B. Numerosity**

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

16 **C. Commonality**

17 103. There are questions of law or fact common to the Class, including at least the  
18 following:

- 19 (a) Whether Defendants created and maintained a Field Review List or  
20 "Watch List" or "do not use" database;
- 21 (b) Whether Defendants pressured appraisers into producing appraisal reports  
22 that misstated the value of the subject properties or were not in conformance with USPAP;
- 23 (c) Whether Defendants used the wires and mails to further the scheme;
- 24 (c) Whether Defendants violated RICO;
- 25 (d) Whether Defendants' wrongful conduct resulted in economic damage to  
26 Plaintiff and members of the Class, and the amount of said damages; and

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

2 **D. Typicality**

3 104. Plaintiff's claims are typical of the claims of the other members of the Class.

4 Plaintiff has the same interests in this matter as all other members of the Class, and its claims are  
5 substantially identical to and typical of the claims of all members of the Class. Plaintiff does not  
6 have interests antagonistic to or in conflict with those of the members of the Class.

7 **E. Adequacy**

8 105. Plaintiff is committed to pursuing this action and has retained competent counsel  
9 experienced in class actions. Plaintiff will fairly and adequately represent the interests of the  
10 Class members.

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

13 106. The prerequisites to maintaining a class action for injunctive relief exist:

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

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

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

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

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

2 109. The common questions of law and fact enumerated above predominate over  
3 questions affecting only individual members of the Class, and a class action is the superior  
4 method for fair and efficient adjudication of the controversy. The likelihood that individual  
5 members of the Class will prosecute separate actions is remote due to the time and expense  
6 necessary to conduct such litigation. To Plaintiff's knowledge, no similar litigation is currently  
7 pending by other members of the Class. Plaintiff's counsel, highly experienced in class actions,  
8 foresee little difficulty in the management of this case as a class action.

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

10 110. Any applicable statutes of limitations have been tolled by Defendants' illegal  
11 practices. Defendants have fraudulently concealed from Plaintiff and the Class the truth about  
12 the unlawful practices described herein, thereby tolling the running of applicable statutes of  
13 limitation.

14 111. Plaintiff and the Class could not have reasonably discovered Defendants'  
15 practices as alleged herein earlier than they did.

16 112. Defendants are estopped from relying on any statute of limitations defense.

17 **VII. FIRST CAUSE OF ACTION**

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

19 113. Plaintiff, on behalf of itself and all others similarly situated, realleges and  
20 incorporates herein by reference each of the allegations contained in the preceding paragraphs of  
21 this Complaint.

22 114. This cause of action, which alleges violations of Section 1962(c) of RICO, 18  
23 U.S.C. § 1962(c), is asserted against the Defendants on behalf of the Class.

24 115. Plaintiff, each Class member, and each Defendant is a "person," as that term is  
25 defined in 18 U.S.C. § 1961(3).  
26

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

5 **A. The Enterprises**

6 **1. The Countrywide Brokerage Enterprise**

7 117. The RICO “enterprise” is an association-in-fact entitled the “Countrywide Broker  
8 Enterprise” consisting of: (1) Countrywide, including its LandSafe loan closing services  
9 subsidiaries, and (2) other mortgage brokers not named as defendants herein who have contracts  
10 with Countrywide pursuant to which they sell, arrange, promote, or otherwise assist Countrywide  
11 in directing borrowers into loans issued by Countrywide. The Enterprise is ongoing and  
12 continuing business organizations consisting of both corporations and individuals that are and  
13 have been associated for the common or shared purposes of preventing appraisers on the Field  
14 Review List from obtaining any business related to real estate transactions in which Countrywide  
15 is the mortgage lender.

16 118. The Countrywide Broker Enterprise is an ongoing organization that engages in,  
17 and whose activities affect, interstate commerce.

18 119. While all Defendants participate in and are members and part of the Countrywide  
19 Broker Enterprise, they also have an existence separate and distinct from the enterprise.

20 120. In order to successfully steer as many borrowers as possible into inappropriate  
21 subprime loans, Defendants need a system that allows them to effectively promote these loans.  
22 The Countrywide Broker Enterprise provides Defendants with that system and ability, and their  
23 control of and participation in it is necessary for the successful operation of their scheme.  
24 Furthermore, the participation by the LandSafe subsidiaries in the Countrywide Broker  
25 Enterprise allows the enterprise to function more effectively, given that many of the functions  
26 provided by these entities, such as appraisals, would normally be conducted by independent

1 entities. LandSafe's participation in the enterprise allows the normal checks and balances  
2 within the mortgage process to be eliminated, permitting Defendants to advance their scheme  
3 and conceal the fraudulent activity they have been engaging in.

4 121. The Defendants control and operate the Countrywide Broker Enterprise as  
5 follows: (a) Countrywide determines the commission structure to be paid to all Countrywide  
6 brokers and authorized brokers, rewarding and incentivizing them (with increased commissions,  
7 and rewards such as all-expense-paid trips to Las Vegas) to offer borrowers loans with less  
8 favorable terms than they would otherwise qualify for; (b) Defendants provide Countrywide  
9 brokers and authorized brokers access to its CLUES™ system, which has been utilized to steer  
10 borrowers to more costly loans; (c) Defendants encourage Countrywide brokers and authorized  
11 brokers to utilize Countrywide's LandSafe subsidiaries for certain closing costs associated with  
12 the loan; (d) Countrywide and LandSafe direct brokers to conduct a Field Review on  
13 noncompliant appraisers or to exclude certain appraisers; and (e) Countrywide and LandSafe  
14 create and send the exclusionary list to brokers.

15 122. The Countrywide Broker Enterprise has an ascertainable structure separate and  
16 apart from the pattern of racketeering activity in which the Defendants engage.

17 **2. Alternative Enterprise Allegations: The Countrywide Enterprise**

18 123. Plaintiff, the Class members and Defendants are all "persons" within the meaning  
19 of 18 U.S.C. § 1961(3).

20 124. Based upon Plaintiff's current knowledge, the following persons constitute a  
21 group of individuals associated in fact that will be referred to herein as the "Countrywide  
22 Enterprise": (1) Countrywide and (2) Countrywide's subsidiaries, including its LandSafe loan  
23 closing services subsidiaries.

24 125. The Countrywide Enterprise is an ongoing organization that engages in, and  
25 whose activities affect, interstate commerce.

1           126. While all Defendants participate in and are members and part of the Countrywide  
2 Enterprise, they also have an existence separate and distinct from the enterprise.

3           127. In order to successfully steer as many borrowers as possible into inappropriate  
4 subprime loans, Defendants need a system that allows them to effectively promote these loans.  
5 The Countrywide Enterprise provides Defendants with that system and ability, and their control  
6 of and participation in it is necessary for the successful operation of their scheme. Furthermore,  
7 the participation by the LandSafe subsidiaries in the Countrywide Enterprise allows the  
8 enterprise to function more effectively, given that many of the functions provided by these  
9 entities, such as appraisals, would normally be conducted by independent entities. LandSafe's  
10 participation in the enterprise allows the normal checks and balances within the mortgage  
11 process to be eliminated, permitting Defendants to advance their scheme and conceal the  
12 fraudulent activity they have been engaging in.

13           128. The Countrywide Enterprise has an ascertainable structure separate and apart  
14 from the pattern of racketeering activity in which the Defendants engage.

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

23           130. At all relevant times, LandSafe and the brokers were aware of Countrywide's  
24 conduct; were knowing and willing participants in that conduct by refusing to hire Plaintiff and  
25 the Class members to conduct appraisals for loans being provided by Countrywide; and reaped  
26 profits from that conduct.

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

4 132. The foregoing evidences that all Defendants are willing participants in the  
5 Enterprises; had a common purpose and interest in the establishment and operations of the  
6 foregoing scheme; and agreed to a structure wherein LandSafe, the brokers and Countrywide  
7 would bypass Plaintiff and the Class members in favor of other appraisers not on the Field  
8 Review List. This structure was the basis on which the Enterprises operated.

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

10 133. The Enterprises engaged in and affected interstate commerce because they  
11 engaged in the following activities across state boundaries: the exclusion of appraisers appearing  
12 on the Field Review List from conducting appraisals.

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

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

20 136. Many of the precise dates of Defendants' uses of the U.S. mails and interstate  
21 wire facilities (and corresponding RICO predicate acts of mail and wire fraud) have been hidden  
22 and cannot be alleged without access to these Defendants' books and records. However, Plaintiff  
23 can generally describe the occasions on which the RICO predicate acts of mail fraud and wire  
24 fraud occurred, and how those acts were in furtherance of the scheme. Plaintiff describes this  
25 below.  
26

1           137. The Defendants' use of the U.S. mails and interstate wire facilities to perpetrate  
2 the scheme involved thousands of communications throughout the Class Period including  
3 telephone, email and U.S. Mail communications to brokers regarding the blacklisting of the  
4 appraisers appearing on the Field Review List or who were to be outed by Countrywide and/or  
5 LandSafe; the transmission by email and/or U.S. mail of appraisals prepared by appraisers who  
6 did not appear on the Field Review List or "out list" and the use of fraudulent HUD-1 forms to  
7 complete transactions. In addition to these RICO predicate acts, it was foreseeable to each  
8 Defendant that it would communicate with the brokers by the U.S. mails and by interstate wire  
9 facilities. Further, each Defendant has, in furtherance of the scheme, communicated through use  
10 of the U.S. mails and by interstate wire facilities with their various local offices or divisions.

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

12           138. During the Class Period, the Defendants have exerted control over the Enterprises  
13 and, in violation of Section 1962(c) of RICO, the Defendants have conducted or participated in  
14 the conduct of the affairs of those RICO Enterprises, directly or indirectly by controlling which  
15 appraisals it would accept to qualify a loan. The brokers accepted the Defendants' control over  
16 appraiser choice so that the brokers would get the loan approved and receive their commission  
17 on the origination of the loan. LandSafe followed Countrywide's directives as to which  
18 appraisers to target.

19           139. The Enterprises had a hierarchical decision-making structure headed by  
20 Countrywide. Countrywide created and distributed the Field Review List and/or issued  
21 instructions on which appraisals that it would accept.

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

23           140. Each of the Defendants conducted and participated in the affairs of the above-  
24 referenced Enterprises through a pattern of racketeering activity, including acts that are  
25 indictable under 18 U.S.C. § 1341, relating to mail fraud, and 18 U.S.C. § 1343, relating to wire  
26 fraud. The Defendants' pattern of racketeering likely involved thousands of separate instances of



1 use of the U.S. mails or interstate wire facilities in furtherance of their scheme. Each of these  
2 fraudulent mailings and interstate wire transmissions constitutes a “racketeering activity” within  
3 the meaning of 18 U.S.C. § 1961(1)(B). Collectively, these violations constitute a “pattern of  
4 racketeering activity,” within the meaning of 18 U.S.C. § 1961(5), in which the Defendants  
5 intended to defraud Plaintiff, the members of the Class and other intended victims.

6 141. The Defendants’ racketeering activities amounted to a common course of  
7 conduct, with similar pattern and purpose, intended to exclude impartial and objective appraisers,  
8 that is, Plaintiff and members of the Class. Each separate use of the U.S. mails and/or interstate  
9 wire facilities employed by the Defendants was related, had similar intended purposes, involved  
10 similar participants and methods of execution, and had the same results affecting the same  
11 victims, including Plaintiff and members of the Class. Each Defendant has engaged in the  
12 pattern of racketeering activity for the purpose of conducting the ongoing business affairs of the  
13 Enterprises.

14 **E. Damages Caused by the Defendants’ Scheme**

15 142. The Defendants’ violations of federal law and their pattern of racketeering  
16 activity have directly and proximately caused Plaintiff and members of the Class to be injured in  
17 their business or property because Plaintiff and members of the Class have lost a substantial  
18 amount of business by being excluded from preparing appraisals on real estate transactions  
19 where Countrywide is the lender or potential buyer of the paper.

20 143. Under the provisions of Section 1964(c) of RICO, the Defendants are jointly and  
21 severally liable to Plaintiff and members of the Class for three times the damages that Plaintiff  
22 and the Class members have sustained, plus the costs of bringing this suit, including reasonable  
23 attorneys’ fees.

**VIII. SECOND CAUSE OF ACTION**

**VIOLATION OF CALIFORNIA UNFAIR COMPETITION LAW**

**(California Business and Professions Code §§ 17200, *et seq.*)**

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

145. This cause of action, which alleges violations of the California Unfair Competition Law (“UCL”), Cal. Bus. and Prof. Code §§ 17200, *et seq.*, is asserted against the Defendants on behalf of the Class.

146. Defendants violated the “unfair” and “unlawful” prongs of the UCL by engaging in the conduct set forth above, because the State of California has explicitly adopted the USPAP standards. *See* Cal. Code Reg., Title 10, section 3701 (“Every holder of a license under this part shall conform to and observe the Uniform Standards of Professional Appraisal Practice (USPAP) and any subsequent amendments thereto as promulgated by the Appraisal Standards Board of The Appraisal Foundation which standards are herein incorporated into these regulations by reference as if fully set forth herein.”).

147. Plaintiff and the Class members were injured by Defendants’ conduct because Plaintiff and members of the Class have lost a substantial amount of business by being excluded for preparing appraisals on real estate transactions where Countrywide is the lender or potential buyer of the paper.

148. California law applies to the claims of Plaintiff and all Class members, because all Defendants have their headquarters in California (other than LandSafe, Inc., which has its headquarters in Texas). Defendants planned and implemented their wrongful scheme in California, which thus has an overriding interest in regulating the conduct of Defendants.

149. Plaintiff does not seek restitution for violation of the UCL. Instead, Plaintiff seeks injunctive relief under section 17203 of the California Business and Professions Code,

1 which provides that “any person who engages, has engaged, or proposes to engage in unfair  
2 competition may be enjoined in any court of competent jurisdiction.” Specifically, Plaintiff  
3 seeks an injunction requiring Defendants to cease their wrongful conduct, as alleged above.

4 **IX. THIRD CAUSE OF ACTION**

5 **INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE**

6 150. Plaintiff, on behalf of itself and all others similarly situated, realleges and  
7 incorporates herein by reference each of the allegations contained in the preceding paragraphs of  
8 this Complaint.

9 151. This cause of action, which alleges interference with prospective economic  
10 advantage, is asserted against the Defendants on behalf of the Class.

11 152. California law applies to the claims of Plaintiff and all Class members, because all  
12 Defendants have their headquarters in California (other than LandSafe, Inc., which has its  
13 headquarters in Texas). Defendants planned and implemented their wrongful scheme in  
14 California, which thus has an overriding interest in regulating the conduct of Defendants.

15 153. Plaintiff and all Class members have economic relationships with mortgage  
16 brokers and mortgage lenders. Defendants knew about those relationships and intentionally and  
17 successfully engaged in the conduct alleged in this Complaint for the purpose of disrupting those  
18 relationships.

19 154. Defendants’ unlawful conduct has directly and proximately caused Plaintiff and  
20 members of the Class to be injured in their business or property because Plaintiff and members  
21 of the Class have lost a substantial amount of business by being excluded from preparing  
22 appraisals on real estate transactions where Countrywide is the lender or potential buyer of the  
23 paper.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiff prays for relief and judgment, as follows:  
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Attorneys for Plaintiff and the proposed Class

**CERTIFICATE OF SERVICE**

On December 15, 2008, I caused to be electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following attorneys of record:

- **John S. Devlin , III**  
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- **Thomas E. Loeser**  
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Executed this 15th day of December, 2008, in Seattle, Washington.

HAGENS BERMAN SOBOL SHAPIRO LLP

By:                   s/ Steve W. Berman                    
Steve W. Berman, WSBA #12536