

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT

THE REAL ESTATE BAR ASSOCIATION
FOR MASSACHUSETTS, INC.,

Plaintiff,

v.

SHARON ANN TRAINOR, JOHN R.
HENSHAW, DEBRA BETZ, individually,
and d/b/a MA COASTAL CLOSING,
DEBORAH R. BONDJOUKDJIAN,
ALAN A. BONDJOUKDJIAN, KEVIN HO,
JANA GRADY, BERNICE J. GIARD,
PETER J. PATS, JR., DEANNE BROCHU,
CONSTANTINE T. ILIEV, individually, and
d/b/a MASSACHUSETTS NOTARIES
PUBLIC,

Defendants.

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CIVIL ACTION NO.

COMPLAINT

1. This is an action to restrain violations of G.L. c. 221, § 46A, which provides that “[n]o individual, other than a member, in good standing, of the bar of this commonwealth shall practice law.” Although the Defendants are not attorneys, they are all engaged in the unauthorized practice of law by closing residential real estate loans. Opinion of the Justices, 289 Mass. 607. 613 (1935) (“conveyancing” is the practice of law). Each of the Defendants is a notary public who is representing lenders at the settlement of residential real estate loans. These so-called “notary closings” are in violation of Massachusetts law and an Executive Order issued by the Governor in 2004. The Plaintiff seeks a preliminary and permanent order restraining the Defendants from engaging in the unauthorized practice of law.

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PARTIES

2. Plaintiff The Real Estate Bar Association For Massachusetts, Inc. (“Bar Association”), formerly known as the Massachusetts Conveyancers Association, Inc., is a corporation with a principal place of business at 50 Congress Street, Suite 600, Boston, Massachusetts. The Plaintiff Bar Association is a Massachusetts bar association with a membership of approximately 3,000 Massachusetts real estate attorneys. The Plaintiff Bar Association and its members are concerned with protecting the public interest by seeking to maintain the quality of practice of members of the bar of the Commonwealth with respect to conveyancing, lending, financing and the closing of real estate transactions.

2. Defendant Sharon Ann Trainor is a citizen of Massachusetts with a residence at 253 Pratt Street, Taunton, Massachusetts.

3. Defendant John R. Henshaw is a citizen of Rhode Island with a residence at 92 Tenth Street, Providence, Rhode Island.

4. Defendant Debra Ann Betz is a citizen of Massachusetts with a residence at 15 Old Mill Lane, Plymouth, Massachusetts. Defendant Debra Ann Betz is sued individually and doing business as MA Coastal Closing.

5. Defendant Deborah R. Bondjoukdjian is a citizen of Massachusetts with a residence at 15 Converse Lane, Melrose, Massachusetts.

6. Defendant Alan A. Bondjoukdjian is a citizen of Massachusetts with a residence at 15 Converse Lane, Melrose, Massachusetts.

7. Defendant Kevin Ho is a citizen of Massachusetts with a residence at 143 Beechland Street, Apt. 143, Roslindale, Massachusetts.

8. Defendant Bernice J. Giard is a citizen of Massachusetts with a residence in West Brookfield, Massachusetts.

9. Defendant Peter J. Pats, Jr. is a citizen of Massachusetts with a residence at 149 Uncatena Avenue, Worcester, Massachusetts.

10. Defendant Deanne Brochu is a citizen of Massachusetts with a residence at 70 Shumway Street, Apt. 3, Springfield, Massachusetts.

11. Defendant Constantine T. Iliev is a citizen of Massachusetts with a residence at 87 Gill Street, Avon, Massachusetts. Defendant Constantine T. Iliev is sued individually and doing business as Massachusetts Notaries Public.

JURISDICTION

12. Jurisdiction over this action is specifically conferred on this Court by General Laws c. 221, § 46B which provides that the Superior Court shall have jurisdiction in equity, upon petition of any bar association within the Commonwealth, to restrain violations of G.L. c. 221, § 46A.

STATEMENT OF FACTS

Conveyancing Is The Practice Of Law.

13. A conveyance of property refers to that continuous, interconnected series of activities that must be performed in order to convey a legal interest in real estate from one party to another. The practice of conveyancing includes (a) the review of the legal title to the property to ensure that the seller has good, clear and marketable title to the property, (b) the supervision of the process by which any title issues or encumbrances are resolved, (c) controlling the settlement or “closing” of the real estate transaction to ensure that the appropriate legal documents are properly executed, the consideration for the property is exchanged, and the parties’ obligations to one another are fulfilled, and (d) recording the appropriate documents to create the various interests in the property.

14. Massachusetts courts have long held that conveyancing is the practice of law. See, e.g., Opinion of Justices, 289 Mass. 607, 613 (1935); Mass. Ass’n of Bank Counsel, Inc. v. Closings,

Ltd., 1 Mass. L. Rptr. 87, 1993 WL 818916 (Mass. Super. 1993); Mass. Conveyancers' Ass'n, Inc. v. Colonial Title & Escrow, Inc., 13 Mass. L. Rptr. 633, 2001 WL 669280 (Mass. Super. 2001). When the conveyance of the interest real estate is entrusted to a third person who is not a party to the transaction, the public interest requires that the third person must be an attorney who must control and supervise the entire conveyancing process.

The Settlement Of A Real Estate Transaction Is An Integral Part Of A Conveyance.

15. The settlement of the real estate transaction is an integral and necessary part of a real estate conveyance at which the parties' respective obligations to each other are performed.

16. In advance of the settlement, the conveyancing attorney typically receives from the lender, or himself prepares, a myriad number of loan documents which must be executed by the parties. The lender's conveyancing attorney reviews these documents for accuracy and completeness in order to ensure that, if they are executed properly, they will provide the lender with a valid interest in the property.

17. The conveyancing attorney prepares a settlement statement which accounts for the proceeds of the transaction. For all federally regulated mortgage loans, the conveyancing attorney is required to complete a Uniform Settlement Statement provided for under Regulation X (Code of Federal Regulations Title 24). The Settlement Statement identifies the collection and disbursement of the funds in conformity with the parties' respective obligations. In order to prepare the Settlement Statement accurately, the conveyancing attorney reviews the parties purchase and sale agreement and any other documents containing the parties' agreements.

18. Typically, the parties have questions at the settlement regarding the loan documents, the disbursement of the funds as reflected in the Settlement Statement, the mortgage obligations, and other matters regarding the transaction. It is in the public interest to have the lender's conveyancing

attorney, consistent with his obligations to the lender, explain the various loan documents to the parties.

19. Finally, the conveyancing attorney is responsible for ensuring that the loan documents are executed properly with any necessary acknowledgments required by federal or state law.

Governor’s Executive Order Prohibits “Notary Closings.”

20. On May 15, 2004, the Governor codified the prohibition in Massachusetts law that precludes non-attorneys from conducting residential real estate closings. The Governor issued Executive Order No. 455 which provided, in relevant part, that a “notary public who is not an attorney licensed to practice law in Massachusetts, or who is not directly supervised by an attorney, shall not conduct a real estate closing and shall not act as a real estate closing agent.” Executive Order No. 455, § 9(c).

The Defendants Are Engaged In The Unauthorized Practice Of Law.

21. As described below, each of the Defendants is a notary public who has represented lenders at the settlement of residential real estate loans, has closed such residential real estate loans, and holds himself out as being able to close such loans, in violation of Massachusetts law and the Governor’s Executive Order. On information and belief, the Defendants are the only representatives of the lender at the settlement and no attorney licensed by the Commonwealth is involved in the real estate transaction.

- **Defendant Sharon Ann Trainor**

22. Defendant Sharon Ann Trainor is not an attorney. She is employed as an administrative assistant at Boston 128 Companies, Inc. in Weston, Massachusetts.

23. In violation of Massachusetts law and the Governor’s Executive Order, Defendant

Sharon Ann Trainor has been representing lenders as their closing agent and has been presiding over the settlement of residential real estate closings on behalf of lenders for an undetermined period of time, but at least since May 15, 2004.

24. Defendant Sharon Ann Trainor holds herself out to lenders and members of the public as being able to conduct real estate closings.

- **Defendant John R. Henshaw**

25. Defendant John R. Henshaw is not an attorney. He is a former controller with an accounting degree. Defendant John R. Henshaw does business under the fictitious name of 24/7 Mortgage Closings.

26. In violation of Massachusetts law and the Governor's Executive Order, Defendant John R. Henshaw has been representing lenders as their closing agent in Bristol County, Massachusetts and has been presiding over the settlement of residential real estate closings on behalf of lenders for an undetermined period of time, but at least since May 15, 2004.

28. Defendant John R. Henshaw holds himself out to lenders and members of the public as being able to conduct real estate closings. In his advertisements, Defendant John R. Henshaw states that "I do explain all documents on a general basis to the borrower."

- **Defendant Debra Ann Betz**

29. Defendant Debra Ann Betz is not an attorney. Defendant Debra Ann Betz does business under the fictitious name of MA Coastal Closing.

30. In violation of Massachusetts law and the Governor's Executive Order, Defendant Debra Ann Betz has been representing lenders as their closing agent in Plymouth, Barnstable, Bristol and Norfolk Counties in Massachusetts and has been presiding over the settlement of residential real estate closings on behalf of lenders for an undetermined period of time, but at least since May 15,

2004.

31. Defendant Debra Ann Betz holds herself out to lenders and members of the public as being able to conduct real estate closings. In her advertisements, Defendant Debra Ann Betz offers to provide various services, including “witness & notarize refinance signings” and “witness & notarize documents to complete a loan.”

- **Defendant Deborah R. Bondjoukdjian**

32. Defendant Deborah R. Bondjoukdjian is not an attorney. Defendant Deborah R. Bondjoukdjian is employed by Shawmut Design & Construction, a general contracting and construction management firm headquartered in Boston.

33. In violation of Massachusetts law and the Governor’s Executive Order, Defendant Deborah R. Bondjoukdjian has been representing lenders as their closing agent in Essex, Middlesex, Plymouth, Norfolk and Suffolk Counties in Massachusetts and has been presiding over the settlement of residential real estate closings on behalf of lenders for an undetermined period of time, but at least since May 15, 2004.

34. Defendant Deborah R. Bondjoukdjian holds herself out to lenders and members of the public as being able to conduct real estate closings. In her advertisements, Defendant Deborah R. Bondjoukdjian claims to “specialize” in notary closings.

- **Defendant Alan A. Bondjoukdjian**

35. Defendant Alan A. Bondjoukdjian is not an attorney. Defendant Alan A. Bondjoukdjian is the owner and proprietor of The Hobby Connection, Inc., a hobby store in Stoneham, Massachusetts.

36. In violation of Massachusetts law and the Governor’s Executive Order, Defendant Alan A. Bondjoukdjian has been representing lenders as their closing agent in Essex, Middlesex,

Plymouth, Norfolk and Suffolk Counties in Massachusetts and has been presiding over the settlement of residential real estate closings on behalf of lenders for an undetermined period of time, but at least since May 15, 2004.

37. Defendant Alan A. Bondjoukdjian holds himself out to lenders and members of the public as being able to conduct real estate closings. In his advertisements, which are identical to those of his wife, Defendant Deborah R. Bondjoukdjian, Defendant Alan A. Bondjoukdjian claims to “specialize” in notary closings.

- **Defendant Kevin Ho**

38. Defendant Kevin Ho is not an attorney. Defendant Kevin Ho is the Director, CEO, and General Manager of SkyNet International Limited, which is an exporter and importer located in Boston, Massachusetts.

39. In violation of Massachusetts law and the Governor’s Executive Order, Defendant Kevin Ho has been representing lenders as their closing agent in Norfolk and Suffolk Counties in Massachusetts and has been presiding over the settlement of residential real estate closings on behalf of lenders for an undetermined period of time, but at least since May 15, 2004.

40. Defendant Kevin Ho holds himself out to lenders and members of the public as being able to conduct real estate closings. In his advertisements, Defendant Kevin Ho claims to have successfully conducted more than 200 notary closings.

- **Defendant Jana Grady**

41. Defendant Jana Grady is not an attorney. On information and belief, Defendant Jana Grady has some association with Whitin Woods Realty, Inc., 52 Conservation Drive, Whitinsville, Massachusetts

42. In violation of Massachusetts law and the Governor’s Executive Order, Defendant

Jana Grady has been representing lenders as their closing agent in Barnstable, Bristol, Essex, Franklin, Hamden, Middlesex, Norfolk, Plymouth, Suffolk, and Worcester Counties in Massachusetts and has been presiding over the settlement of residential real estate closings on behalf of lenders for an undetermined period of time, but at least since May 15, 2004.

43. Defendant Jana Grady holds herself out to lenders and members of the public as being able to conduct real estate closings. In her advertisements, Defendant Jana Grady claims to be “[e]xperienced in all Mortgage and Loan doc. prep, and origination. Title and deed research. All legal doc. prep, medical, wills, trusts, etc.”

- **Defendant Bernice J. Giard**

44. Defendant Bernice J. Giard is not an attorney. Defendant Bernice J. Giard is a licensed real estate broker and the owner of the Brookfield Group, 53 Pierce Road, West Brookfield, Massachusetts.

45. In violation of Massachusetts law and the Governor’s Executive Order, Defendant Bernice J. Giard has been representing lenders as their closing agent in Hampden, Hampshire, and Worcester Counties in Massachusetts and has been presiding over the settlement of residential real estate closings on behalf of lenders for an undetermined period of time, but at least since May 15, 2004.

46. Defendant Bernice J. Giard holds herself out to lenders and members of the public as being able to conduct real estate closings. In her advertisements, Defendant Bernice J. Giard claims to have performed more than 100 residential real estate closings.

- **Defendant Peter J. Pats, Jr.**

47. Defendant Peter J. Pats, Jr. is not an attorney. Defendant Peter J. Pats, Jr. is employed by You, Inc., a child welfare and behavioral health organization located in Worcester,

Massachusetts.

48. In violation of Massachusetts law and the Governor's Executive Order, Defendant Peter J. Pats, Jr. has been representing lenders as their closing agent in Worcester County in Massachusetts and has been presiding over the settlement of residential real estate closings on behalf of lenders for an undetermined period of time, but at least since May 15, 2004.

49. Defendant Peter J. Pats, Jr. holds himself out to lenders and members of the public as being able to conduct real estate closings. In his advertisements, Defendant Peter J. Pats, Jr. claims to have closed more than 500 residential real estate loans and refinances.

- **Defendant Deanne Brochu**

50. Defendant Deanne Brochu is not an attorney. Defendant Deanne Brochu is retired from a position in the insurance industry.

51. In violation of Massachusetts law and the Governor's Executive Order, Defendant Deanne Brochu has been representing lenders as their closing agent in Franklin, Hamden, and Hampshire Counties in Massachusetts and has been presiding over the settlement of residential real estate closings on behalf of lenders for an undetermined period of time, but at least since May 15, 2004.

52. Defendant Deanne Brochu holds herself out to lenders and members of the public as being able to conduct real estate closings. In her advertisements, Defendant Deanne Brochu claims to have closed more than 500 residential real estate loans and refinances.

- **Defendant Constantine T. Iliev**

53. Defendant Constantine T. Iliev is not an attorney. Defendant Constantine T. Iliev does business under the fictitious name of Massachusetts Notaries Public located at 87 Gill Street, Avon, Massachusetts.

54. In violation of Massachusetts law and the Governor's Executive Order, Defendant Constantine T. Iliev has been representing lenders as their closing agent in Norfolk, Plymouth, Barnstable, and Bristol Counties in Massachusetts and has been presiding over the settlement of residential real estate closings on behalf of lenders for an undetermined period of time, but at least since May 15, 2004.

55. Defendant Constantine T. Iliev holds himself out to lenders and members of the public as being able to conduct real estate closings. In his advertisements, Defendant Constantine T. Iliev states that he "specialize[s] in presenting and witnessing signatures on Real Estate Loan Documents" and claims to have closed more than 100 residential real estate loans and refinances.

PRAYERS FOR RELIEF

WHEREFORE, as described above, the Defendants' activities at so-called "notary closings" are an integral part of process of conveying an interest in real estate, are the practice of law, and can only be performed by attorneys licensed to practice in Massachusetts. Consequently, the Defendants are in violation of General Laws c. 221, § 46A and are exposing the public to serious risk of harm.

The Plaintiff Bar Association and its members demand relief as follows:

1. Enter an Order preliminary enjoining the Defendants from conducting closings of real estate transactions, presiding over the execution by mortgagors of loan and real estate title documents, notarizing any documents at the closing of a real estate transaction or participating in any other way in any real estate conveyances pending a trial on the merits of the Plaintiff's claims;
2. Following a trial on the merits of the Plaintiff's claims, enter an Order declaring that the Defendants' activities constitute the unauthorized practice of law in violation of General Laws c. 221, § 46A and Executive Order No. 455, § 9(c); and
3. Enter an order permanently enjoining the Defendants from conducting closings of

real estate transactions, presiding over the execution by mortgagors of loan and real estate title documents, notarizing any documents at the closing of a real estate transaction or participating in any other way in any real estate conveyances.

4. Allow such other relief as this Court deems just.

THE REAL ESTATE BAR ASSOCIATION
FOR MASSACHUSETTS, INC.

By its attorneys,

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