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**FILED**

**JUN 09 2015**

**TRAVIS L. FRANCIS  
ASSIGNMENT JUDGE  
MIDDLESEX VICINAGE**

By: David M. Reap (025632012)  
Deputy Attorney General  
[REDACTED]

SUPERIOR COURT OF NEW JERSEY  
CHANCERY DIVISION  
MIDDLESEX COUNTY  
DOCKET NO. C-135-14

JOHN J. HOFFMAN, Acting Attorney General of the  
State of New Jersey, and STEVE C. LEE, Acting Director  
of the New Jersey Division of Consumer Affairs,

Plaintiffs,

v.

CHW GROUP INC. d/b/a CHOICE HOME  
WARRANTY; VICTOR MANDALAWI; VICTOR  
HAKIM; DAVID SERUYA; JANE AND JOHN DOES 1-  
20, individually and as officers, directors, shareholders,  
founders, owners, managers, agents, servants, employees,  
representatives, sales representatives and/or independent  
contractors of CHW GROUP, INC. d/b/a CHOICE HOME  
WARRANTY; and XYZ CORPORATIONS 1-20,

Defendants.

Civil Action

**FINAL CONSENT JUDGMENT**

The Parties to this Action and Final Consent Judgment (“Consent Judgment”) are plaintiffs John J. Hoffman, Acting Attorney General of the State of New Jersey (“Attorney General”), and Steve C. Lee, Acting Director of the New Jersey Division of Consumer Affairs (“Director”) (collectively, “Plaintiffs”), and defendants CHW Group Inc. d/b/a Choice Home

Warranty (“CHW”), Victor Mandalawi (“Mandalawi”), Victor Hakim (“Hakim”) and David Seruya (“Seruya”) (collectively, “Defendants”). As evidenced by their signatures below, the Parties do consent to the entry of this Consent Judgment and its provisions without trial or adjudication of any issue of fact or law, and without an admission of any liability or wrongdoing of any kind. The Parties consent to entry of this Consent Judgment to avoid the expenses and uncertainty associated with further investigation and/or litigation.

### **PRELIMINARY STATEMENT**

Plaintiffs commenced this Action on July 22, 2014, alleging that Defendants violated the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. (“CFA”), and the Regulations Governing General Advertising, N.J.A.C. 13:45A-9.1 et seq. (“Advertising Regulations”), arising from their Advertisement, offer for Sale and Sale of RSCs. Defendants have denied the allegations.

The Court has reviewed the terms of this Consent Judgment and based upon the Parties’ agreement and for good cause shown:

**IT IS HEREBY ORDERED, ADJUDGED AND AGREED AS FOLLOWS:**

#### **1. JURISDICTION**

1.1 The Parties admit jurisdiction of this Court over the subject matter and over the Parties for the purpose of entering into this Consent Judgment. The Court retains jurisdiction for the purpose of enabling the Parties to apply to the Court at any time for such further orders and relief as may be necessary for the construction, modification, enforcement, execution or satisfaction of this Consent Judgment.

#### **2. VENUE**

2.1 Pursuant to N.J.S.A. 56:8-8, venue as to all matters between the Parties hereto

relating to or arising out of this Consent Judgment will lie exclusively in the Superior Court of New Jersey, Chancery Division, Middlesex County.

### **3. EFFECTIVE DATE**

3.1 This Consent Judgment is effective on the date that it is entered with the Court (“Effective Date”).

### **4. DEFINITIONS**

As used in this Consent Judgment, the following capitalized words or terms have the following meanings, which meanings apply wherever the words and terms appear in this Consent Judgment.

4.1 “AAA” refers to the American Arbitration Association.

4.2 “Action” refers to the matter titled John J. Hoffman, Acting Attorney General of the State of New Jersey, and Steve C. Lee, Acting Director of the New Jersey Division of Consumer Affairs v. CHW Group, Inc. d/b/a Choice Home Warranty, Victor Mandalawi, Victor Hakim, and David Seruya, Superior Court of New Jersey, Chancery Division, Middlesex County, Docket No. MID-C-135-14, and all pleadings and proceedings related thereto, including the Complaint, filed July 22, 2014.

4.3 “Additional Consumer” refers to any Consumer who submits to the Division, directly or through another agency, after the Effective Date, a complaint concerning CHW’s business practices.

4.4 “ADR Unit” refers to the Alternative Dispute Resolution Unit of the Division.

4.5 “Advertisement” is defined in accordance with N.J.S.A. 56:8-1(c). For purposes of the Advertising Regulations, “Advertisement” shall be defined in accordance with N.J.A.C. 13:45A-9.1. These definitions apply to other forms of the word “Advertisement,” including

“Advertise[s]” and “Advertised.”

4.6 “Attorney General” refers to the Attorney General of the State of New Jersey and the Office of the Attorney General of the State of New Jersey.

4.7 “CHW Advertisements” refers to CHW’s Advertisements, Including the CHW Booklet, CHW Commercial Advertisements, CHW Email Advertisements and CHW Website.

4.8 “CHW Booklet” refers to the booklet CHW mails to Consumers who purchase RSCs, which includes the RSC.

4.9 “CHW Commercial Advertisements” refers to commercials posted by CHW at [www.youtube.com](http://www.youtube.com).

4.10 “CHW Email Advertisements” refers to emails sent by CHW to Consumers Advertising and offering for Sale RSCs.

4.11 “CHW Website” refers to the website located at [www.choicehomewarranty.com](http://www.choicehomewarranty.com), as well as any other website owned or controlled by CHW through which RSCs are Advertised, offered for Sale and/or sold, Including [www.choicehomeaz.com](http://www.choicehomeaz.com); [www.choicehomenv.com](http://www.choicehomenv.com); [www.choicehomeus.com](http://www.choicehomeus.com); [www.choicehomewarranty.biz](http://www.choicehomewarranty.biz); [www.choicehomewarranty.info](http://www.choicehomewarranty.info); [www.choicehomewarranty.me](http://www.choicehomewarranty.me); [www.choicehomewarranty.mobi](http://www.choicehomewarranty.mobi); [www.choicehomewarranty.net](http://www.choicehomewarranty.net); [www.choicehomewarranty.org](http://www.choicehomewarranty.org); [www.chwplan.com](http://www.chwplan.com); and [www.warrantymyhome.com](http://www.warrantymyhome.com).

4.12 “Claims Agent” refers to any employee of CHW or any Person acting or purporting to act on its behalf, engaged in the evaluation of Consumers’ claims arising under RSCs.

4.13 “Clearly and Conspicuously” means a statement that, regardless of the medium in which it is made, is presented in such size, color, contrast, duration, location and audibility, compared to the other information with which it is presented, that it is readily apparent and

understandable and in language and terms used in accordance with their common or ordinary usage and meaning.

4.14 “Consumer” refers to any Person who is offered Merchandise for Sale.

4.15 “Diagnosis Form” refers to the form, whether electronic or otherwise, through which Claim Agents, or any other of CHW’s employees or any other Person acting or purporting to act on CHW’s behalf, memorialize a technician’s diagnosis of a failure to a Consumer’s home system or appliance.

4.16 “Division” or “Division of Consumer Affairs” refers to the New Jersey Division of Consumer Affairs.

4.17 “Including” is construed as broadly as possible and shall mean “without limitation.” This definition applies to other forms of the word “Including” such as “Include” and “Included.”

4.18 “Merchandise” is defined in accordance with N.J.S.A. 56:8-1(c) and shall Include RSCs.

4.19 “New Jersey” and “State” refers to the State of New Jersey.

4.20 “Person[s]” is defined in accordance with N.J.S.A. 56:8-1(d).

4.21 “Represent” means to state or imply through claims, statements, questions, conduct, graphics, symbols, lettering, formats, devices, language, documents, messages or any other manner or means by which meaning might be conveyed.

4.22 “Restitution” refers to all methods undertaken by CHW to resolve Additional Consumer complaints, Including the issuance of refund checks or other payments.

4.23 “RSC” refers to CHW’s residential Service Contract.

4.24 “Sale” is defined in accordance with N.J.S.A. 56:8-1(e).

4.25 “Sales Representative” refers to any employee of CHW, or any Person acting or purporting to act on its behalf, engaged in the Advertisement, offer for Sale or Sale of RSCs.

4.26 “Service Contract” is defined in accordance with N.J.S.A. 56:12-87.

4.27 “Service Contracts Act” refers to the Act Concerning Service Contracts, N.J.S.A. 56:12-87 et seq.

4.28 “Warranty” is defined in accordance with N.J.S.A. 56:12-87.

## **5. INJUNCTIVE RELIEF AND REQUIRED BUSINESS PRACTICES AS TO CHW, MANDALAWI AND HAKIM**

5.1 CHW, Mandalawi and Hakim shall not engage in any unfair or deceptive acts or practices in the conduct of any business in the State and shall comply with such State laws, rules and regulations as now constituted, including the CFA, the Advertising Regulations and the Service Contracts Act.

### **Advertisement and Offer for Sale of RSCs:**

5.2 In the CHW Advertisements, CHW, Mandalawi and Hakim shall Clearly and Conspicuously disclose that CHW offers for Sale and/or sells Service Contracts, which are not Warranties.

5.3 In the CHW Advertisements, CHW, Mandalawi and Hakim shall not Represent that Consumers who purchase RSCs will never pay for repairs to home systems or appliances.

5.4 In the CHW Advertisements, CHW, Mandalawi and Hakim shall not Represent that Consumers who purchase RSCs will be assigned technicians to service their claims, unless they are able to assign technicians to service Consumers’ claims.

5.5 In the CHW Advertisements, CHW, Mandalawi and/or Hakim shall not Represent that technicians will be assigned to a Consumer’s claim and/or dispatched to a Consumer’s residence within a specified time period (e.g. within two (2) days).

5.6 In the CHW Advertisements, CHW, Mandalawi and Hakim shall not Represent that Consumers who purchase RSCs will have their home systems and/or appliances replaced, unless they Clearly and Conspicuously disclose, in close proximity to such Representations, that CHW reserves the right to make payment to Consumers in lieu of replacing their home systems or appliances, and that, in the event that CHW makes such payment, CHW will provide written notification to Consumers of the basis for the amount of the payment.

5.7 In the CHW Advertisements, CHW, Mandalawi and Hakim shall Clearly and Conspicuously disclose that CHW reserves the right to make payment to Consumers in lieu of replacing their home systems or appliances.

5.8 In the CHW Advertisements, CHW, Mandalawi and Hakim shall Clearly and Conspicuously disclose any limitations of liability and/or exclusions from coverage under the terms and conditions of the RSC.

5.9 In the CHW Website, CHW, Mandalawi and Hakim shall Include a section concerning Consumers' maintenance of their home systems and appliances, which shall Include a statement that CHW has the right to request "maintenance records" and/or similar documents from Consumers under certain circumstances.

**Sales Representatives:**

5.10 Sales Representatives shall not make any false or misleading statements to induce Consumers to purchase RSCs.

5.11 Sales Representatives shall not misrepresent to Consumers the terms and conditions of the RSC.

5.12 Sales Representatives shall not Represent to Consumers that CHW will assign technicians to service their claims, unless CHW is able to assign technicians to service Consumers' claims.

5.13 Sales Representatives shall disclose that CHW reserves the right to make payment to Consumers in lieu of replacing their home systems or appliances.

5.14 Sales Representatives shall disclose that CHW has the right to require Consumers to submit "maintenance records" and/or other similar documents under certain circumstances.

**Terms and Conditions of the RSC:**

5.15 CHW, Mandalawi and Hakim shall Clearly and Conspicuously disclose in the terms and conditions of the RSC any limitation of liability and/or exclusion from coverage.

5.16 CHW, Mandalawi and Hakim shall not Include in the RSC any statement that CHW will arrange for technicians to service a Consumers' claims, unless CHW is able to arrange for technicians to service Consumers' claims.

5.17 CHW, Mandalawi and Hakim shall not Include in the RSC any statement that technicians will be assigned to service Consumer's claim and/or dispatched to Consumers' residences within a specified time period (e.g. within two days), unless CHW is able to assign technicians to service Consumers' claims and/or dispatch technicians to Consumers' residences within the specified time period.

5.18 CHW, Mandalawi and Hakim shall Clearly and Conspicuously disclose in the terms and conditions of the RSC that CHW reserves the right to make payment to Consumers in lieu of replacing their home systems or appliances.

5.19 CHW, Mandalawi and Hakim shall Clearly and Conspicuously disclose in the terms and conditions of the RSC that CHW has the right to require Consumers to submit



“maintenance records” and/or other similar documents in the event that Consumers request that CHW review the denial of their claims.

5.20 CHW, Mandalawi and Hakim shall Include in the terms and condition of the RSC that any informal resolution process of a Consumer’s claim is voluntary and shall be concluded within twenty (20) days.

5.21 CHW, Mandalawi and Hakim shall not Include in the terms and conditions of the RSC any references to arbitration before the AAA, unless CHW is in good standing with the AAA.

5.22 CHW, Mandalawi and Hakim shall not Include in the terms and conditions of the RSC any reference to any limitation on liability that contradicts applicable New Jersey Consumer protection laws, particularly as to Consumers’ rights to recovery.

5.23 To the extent that any of the above-referenced provisions require changes in the terms and conditions of the existing RSC, CHW, Mandalawi and Hakim shall make such changes within ninety (90) days of the Effective Date.

**Assignment of Technicians:**

5.24 CHW, Mandalawi and Hakim shall ensure, to the best of their knowledge based upon their diligent and good faith inquiries, that any technician they assign to service a Consumer’s claim possesses all requisite licenses, registrations and insurance.

5.25 CHW, Mandalawi and Hakim shall ensure that any technician they assign to service a Consumer’s claim, to the best of their knowledge based on their diligent and good faith inquiries, is available and able to service such claim.

**Evaluation of Claims:**

5.26 In CHW, Mandalawi and Hakim's initial evaluation of Consumers' claims, they shall not request "maintenance records" or other similar documents from Consumers.

5.27 CHW, Mandalawi and Hakim shall not deny a Consumer's claim upon a basis not set forth in the RSC.

5.28 At the time a Claims Agent orally denies a Consumer's claim, the Claims Agent shall inform the Consumer that he/she has the right to request a written denial from CHW, which shall be provided to him/her in fifteen (15) days of receiving the request for a written denial.

5.29 The written denial shall include:

- (a) the technician's diagnosis of the home system or appliance, as demonstrated by any available supporting documents, whether electronic or otherwise, including the Diagnosis Form;
- (b) CHW's basis for the denial under the RSC; and
- (c) notification that the Consumer may send a written request for CHW to review the denial, along with a list of required documents (i.e. "maintenance records") that must be sent with such a request.

5.30 Within thirty (30) days of receiving a Consumer's written request to review a denial, CHW shall provide written notification to the Consumer of the results of its review, which shall include the basis for its decision and any supporting documents.

5.31 In the event a Consumer disputes the results of CHW's review, CHW shall orally inform the Consumer that he/she may submit a complaint to the Division, which will be referred to arbitration with the ADR Unit, in accordance with Section 7.

**Payment to Technicians:**

5.32 In the event that a Consumer notifies CHW, orally or in writing, that a technician is directly seeking payment from him/her, CHW, Mandalawi and Hakim shall make payment to the technician of the approved amount within thirty (30) days.

**Payment in Lieu of Replacement:**

5.33 In the event CHW, Mandalawi and/or Hakim makes payment to a Consumer in lieu of replacing his/her home system or appliance, CHW, Mandalawi and/or Hakim shall provide the Consumer with written notification of payment, which shall include CHW's basis for the amount provided as payment in lieu of replacement of the home system or appliance.

5.34 Within thirty (30) days of providing the Consumer with written notification of payment, CHW, Mandalawi and Hakim shall provide the Consumer with such payment in the same manner in which the Consumer purchased the RSC or by check, at the election of the Consumer.

**Refunds:**

5.35 In the event that CHW, Mandalawi and/or Hakim cancel a RSC, at the time of such cancellation, they shall provide the Consumer with written notification of the cancellation, which shall include the amount of any refund due to the Consumer.

5.36 Within thirty (30) days of providing the Consumer with written notification of the cancellation, CHW, Mandalawi and Hakim shall provide any refund due in the same manner in which the Consumer purchased the RSC or by check, at the election of the Consumer.

**Written Notification:**

5.37 CHW, Mandalawi and Hakim may provide the written notifications to Consumers required under Sections 5.28, 5.30, 5.33, 5.35 by electronic transmission.

**Training of Sales Representatives and Claims Agents:**

5.38 CHW, Mandalawi and/or Hakim shall develop training materials to ensure that their Sales Representatives and Claims Agents are familiar with the terms of this Consent

Judgment. Such training shall Include, at a minimum, the specific practices that are required and prohibited pursuant to Section 5 of this Consent Judgment.

5.39 CHW, Mandalawi and Hakim shall ensure that all of their Sales Representatives and Claims Agents receive the training referenced in Section 5.38 within thirty (30) days of the Effective Date.

5.40 CHW, Mandalawi and Hakim shall have a continuing obligation to ensure that all new Sales Representatives and Claims Agents receive the training referenced in Section 5.38 within thirty (30) days of their commencement of employment with CHW.

5.41 CHW, Mandalawi and Hakim shall ensure that their Sales Representatives and Claims Agents sign a form acknowledging that he/she has received the training and materials.

**Service Contracts Act:**

5.42 CHW, Mandalawi and Hakim shall comply with all of the requirements of the Service Contracts Act.

**6. INJUNCTIVE RELIEF AND REQUIRED BUSINESS PRACTICES AS TO SERUYA**

6.1 Seruya Represents and warrants that he has not been an officer, director, shareholder, owner, manager, agent, servant, employee, representative, Sales Representative, Claims Agent and/or independent contractor of CHW's parent company, CHW, CHW's affiliated companies and/or CHW's subsidiary companies since at least May 21, 2013.

6.2 Seruya shall provide written notice to Plaintiffs of any plans to: (a) relocate any business entity owned, operated and/or managed by him to New Jersey; (b) form any business entity to be owned, operated and/or managed by him in New Jersey, and/or (c) Advertise, offer for Sale and/or sell Merchandise, Including RSCs or any other type of Service Contracts to Consumers in New Jersey, along with a description of any such Merchandise. Seruya shall

provide such notification at least thirty (30) days prior to the date of any such relocation, formation and/or Advertisement, offer for Sale, and/or Sale of Merchandise.

6.3 In the event Seruya: (a) relocates any business entity owned operated and/or managed by him to New Jersey that is engaged in the Advertisement, Offering for Sale and/or Sale of RSCs or any type of Service Contracts; (b) forms any business entity owned, operated and/or managed by him in New Jersey that is engaged in the Advertisement, offering for Sale and/or Sale of RSCs or any type of Service Contracts; and/or (c) otherwise Advertises, Offers for Sale and/or sells RSCs or any other type of Service Contracts to Consumers in New Jersey, he shall comply with the requirements of Sections 5.1 through 5.42 of this Consent Judgment.

#### **7. ADDITIONAL CONSUMER COMPLAINTS**

7.1 For a period of one (1) year from the Effective Date, the Division shall forward to CHW copies of any Additional Consumer complaints. The Division shall forward to CHW such complaints within thirty (30) days of the Division's receipt thereof.

7.2 After forwarding to CHW the complaint of an Additional Consumer, the Division shall notify the Additional Consumer, in writing, of the following: (a) that his/her complaint has been forwarded to CHW; (b) that he/she should expect a response from CHW within thirty (30) days from the date of this notice; and (c) the right to refer his/her complaint to the ADR Unit for binding arbitration if CHW disputes the complaint and/or requested relief.

7.3 Within thirty (30) days of receiving the Additional Consumer complaint from the Division, CHW shall send a written response to the Additional Consumer, with a copy sent by first class mail, fax or email to the following:

New Jersey Division of Consumer Affairs,  
Office of Consumer Protection  
Case Initiation and Tracking Unit  
124 Halsey Street, P.O. Box 45025

Newark, New Jersey 07101  
Fax: (973) 648-3139  
E-mail: cmt@dca.lps.state.nj.us.

7.4 If CHW does not dispute the Additional Consumer's complaint and requested relief, CHW shall provide written notification to the Additional Consumer. Where Restitution concerns a refund or other payment, such shall be made to the Additional Consumer in the same manner in which the Consumer purchased the RSC or by check.

7.5 If CHW disputes the Additional Consumer's complaint and/or requested relief, CHW's written response shall include copies of any documents concerning CHW's dispute of the complaint.

7.6 Within forty-five (45) days of receiving from the Division the Additional Consumer's complaint, CHW shall provide the Division with written notification whether the Additional Consumer's complaint has been resolved. Such notification shall include the following:

- (a) The Additional Consumer's name and address;
- (b) Whether the Additional Consumer's complaint has been resolved;
- (c) The Restitution provided to the Additional Consumer;
- (d) Copies of any documents evidencing Restitution provided to the Additional Consumer;
- (e) Confirmation that CHW sent all notifications to the Additional Consumer as required by this Section; and
- (f) In the event that CHW's written response and/or Restitution to the Additional Consumer is returned as undeliverable, the efforts CHW has undertaken to locate the Additional Consumer.

Following the Division's receipt and verification that an Additional Consumer's complaint has been resolved, the Additional Consumer's complaint shall be deemed closed for purposes of this

Consent Judgment.

7.7 If within sixty (60) days of CHW's receipt of the Additional Consumer's complaint: (a) CHW has not notified the Division that the Additional Consumer's complaint has been resolved; (b) CHW has notified the Division that the Additional Consumer's complaint has not been resolved; or (c) CHW notified the Division that the Additional Consumer refuses CHW's offer of Restitution, the Division shall forward such Additional Consumer complaint to the ADR Unit for binding arbitration. CHW agrees herein to consent to this arbitration process and to be bound by the arbitrator's decision. CHW further agrees to be bound by the immunity provisions of the New Jersey Arbitration Act, N.J.S.A. 2A:23B-14, and the New Jersey Tort Claims Act, N.J.S.A. 59:1-1 et seq. The Division shall notify any such Additional Consumer and CHW of the referral of the complaint to the ADR Unit. Thereafter, the arbitration shall proceed in accordance with the ADR Guidelines (a copy of which is attached as Exhibit A).

7.8 If CHW refuses to participate in the ADR program, the arbitrator may enter a default against CHW. Unless otherwise specified in the arbitration award, CHW shall pay all arbitration awards within thirty (30) days of the arbitrator's decision.

7.9 CHW's failure or refusal to comply with the requirements of Sections 7.3 through 7.6 and/or participate in the arbitration process or pay an arbitration award timely shall constitute a violation of this Consent Judgment. Under these circumstances, the Division may unilaterally discontinue the Additional Consumer complaint resolution process upon notice to CHW.

7.10 If an Additional Consumer refuses to participate in the ADR program, that Additional Consumer's complaint shall be deemed closed for the purposes of this Consent Judgment and no Restitution will be required to be made by CHW to the Additional Consumer through the Additional Consumer Complaints Process.

7.11 The Parties may agree in writing to alter any time periods or deadlines set forth in this Section.

7.12 Following the expiration of the one (1) year period, CHW may request to continue the Additional Consumer complaint resolution process for up to two (2) successive one (1) year periods, upon written notice by CHW to the Division not later than thirty (30) days prior to the expiration of the initial or any subsequent one (1) year period. The Division may decline to grant CHW's request, at its sole discretion, for any reason including those set forth in Section 7.9.

## **8. INDEPENDENT COMPLIANCE MONITOR**

8.1 Within thirty (30) days of the Effective Date, CHW shall retain an Independent Compliance Monitor ("Compliance Monitor") to monitor CHW's compliance with the terms and conditions of this Consent Judgment. CHW shall bear all costs associated with the Compliance Monitor.

8.2 The Compliance Monitor will be an individual whose retention is approved in advance by the Division and who is familiar with the terms of the Consent Judgment. The Compliance Monitor will serve in this capacity for a period of up to two (2) years from the date of retention ("Monitoring Period"), subject to Sections 8.10 and 8.11.

8.3 The Compliance Monitor shall not have any direct or indirect interest in, or relationship with, either the Division or Defendants that would impede, or reasonably be perceived to impede, the Compliance Monitor's ability to perform the services under this Consent Judgment.

8.4 The Compliance Monitor shall not be employed by or affiliated with CHW, Mandalawi and/or Hakim, nor any other entity owned or controlled by them, for a period of at least one (1) year from the termination of the Monitoring Period.



8.5 Under no circumstances will the cost of the Compliance Monitor exceed One Hundred Thousand and 00/100 Dollars (\$100,000.00), regardless of the length of the Compliance Monitor's retention.

8.6 The Compliance Monitor shall be compensated quarterly, and he/she shall submit a quarterly invoice to CHW for the amount of all of his/her costs incurred during the quarter. CHW shall pay each invoice within thirty (30) days upon receipt.

8.7 The Compliance Monitor shall perform the following functions:

- (a) Monitor CHW, Mandalawi and Hakim's compliance with the terms of this Consent Judgment as well as with all applicable State laws;
- (b) Monitor CHW, Mandalawi and Hakim's compliance with CHW's internal policies and procedures;
- (c) Evaluate the adequacy of CHW's internal policies and procedures to ensure compliance with all applicable State laws, and to recommend any changes to those policies and procedures that the Compliance Monitor deems reasonably necessary to achieve such compliance; and
- (d) Provide written quarterly reports to the Division.

8.8 The Compliance Monitor's quarterly reports referenced in Section 8.7 shall be limited to the following:

- (a) Confirming that the CHW Advertisements have been revised in accordance, and otherwise comply, with Sections 5.2 to 5.9;
- (b) Confirming that CHW, Mandalawi and Hakim have implemented policies to ensure that their Sales Representatives do not misrepresent the terms and conditions of the RSC and make the disclosures set forth in Sections 5.13 and 5.14;
- (c) Confirming that CHW, Mandalawi and Hakim have revised their RSC in accordance with Sections 5.15 to 5.23, within ninety (90) days of the Effective Date;
- (d) Confirming that CHW, Mandalawi and Hakim's assignment of technicians comply with Sections 5.24 and 5.25;

- (e) Confirming that CHW, Mandalawi and Hakim, in their initial evaluation of claims under the RSC, do not request “maintenance records” or similar documents from Consumers, and do not deny Consumers’ claims upon a basis not set forth in the RSC, in accordance with Sections 5.26 and 5.27;
- (f) Confirming that CHW, Mandalawi and Hakim have implemented policies to ensure that they provide written notifications to Consumers in accordance with Sections 5.28, 5.29, 5.30, 5.33, and 5.35; and
- (g) Confirming that CHW has addressed the Additional Consumer complaints, in accordance with Section 7.

8.9 Within thirty (30) days of the Effective Date, CHW shall send to the Division the full name, business address (street and mailing), telephone number, facsimile number and electronic mail address of the Compliance Monitor.

8.10 At any time after one (1) year from the date of hire of the Compliance Monitor, CHW may make a written request to the Division to terminate the retention of the Compliance Monitor. Such request shall include a certification under oath by a principal of CHW that CHW has been in compliance with all applicable State laws, CHW’s own policies and procedures, and this Consent Judgment.

8.11 Within thirty (30) days of the submission of the request referenced in Section 8.10, the Division shall notify CHW, in writing, whether it will consent to CHW’s request to terminate the retention of the Compliance Monitor.

8.12 If the Compliance Monitor’s retention is terminated prior to the expiration of the Monitoring Period, the Compliance Monitor shall submit an invoice to CHW for any costs incurred after submission of the last quarterly invoice. CHW shall pay that invoice within thirty (30) days of receipt.

8.13 CHW’s failure to timely pay any invoice presented to it by the Compliance Monitor shall constitute a violation of this Consent Judgment.

## 9. SETTLEMENT PAYMENT

9.1 The Parties have agreed to a settlement of the Action in the amount of Seven Hundred Seventy-Nine Thousand Nine Hundred Thirteen and 93/100 Dollars (\$779,913.93) (“Settlement Payment”), which is comprised of civil penalties, pursuant to the CFA, N.J.S.A. 56:8-13, Restitution, pursuant to the CFA, N.J.S.A. 56:8-8, and reimbursement of Plaintiffs’ attorneys’ fees and investigative costs, pursuant to the CFA, N.J.S.A. 56:8-11.

9.2 CHW shall make the Settlement Payment as follows:

- (a) On or before thirty (30) days from the Effective Date, CHW shall pay Two Hundred Eighty Three Thousand Eight Hundred Eighty-Eight and 93/100 Dollars (\$283,888.93); and
- (b) On or before nine (9) months from the Effective Date, CHW shall pay Four Hundred Ninety-Six Thousand and 00/100 Dollars (\$496,025.00).

9.3 CHW shall pay the Settlement Payment by wire transfer, certified or cashier’s check, money order or credit card made payable to “New Jersey Division of Consumer Affairs” and forwarded to:

David M. Reap, Deputy Attorney General  
Consumer Fraud Prosecution Section  
State of New Jersey  
Office of the Attorney General  
Department of Law and Public Safety  
Division of Law  
124 Halsey Street - 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, New Jersey 07101

9.4 Upon making the Settlement Payment, CHW shall immediately be fully divested of any interest in, or ownership of, the monies paid and all interest in the monies, and any subsequent interest or income derived therefrom, shall inure entirely to the benefit of the Plaintiffs pursuant to the terms herein.

9.5 In the event that CHW fails to make the Settlement Payment in accordance with

Sections 9.2 and 9.3, Plaintiffs shall provide CHW with written notice of non-payment. CHW shall be afforded a seven (7) day period from receipt of such notice within which to cure any such non-payment. CHW's failure to cure any such non-payment will be considered an event of default ("Event of Default").

9.6 Upon a request by or on behalf of CHW and verification that the Settlement Payment has been made, Plaintiffs shall provide CHW with a Warrant of Satisfaction as to such payment. The Warrant of Satisfaction shall have no effect on CHW, Mandalawi, Hakim and Seruya's continuing obligations under any other provision of this Consent Judgment.

#### **10. CONFESSION OF JUDGMENT**

10.1 Upon execution of this Consent Judgment, Mandalawi, Hakim and Seruya shall provide Plaintiffs with an executed Confession of Judgment in the amount of Seven Hundred Seventy-Nine Thousand Nine Hundred Thirteen and 93/100 Dollars (\$779,913.93) that has been executed in the form annexed as Exhibit B. Plaintiffs' counsel shall hold the Confession of Judgment in escrow pending an Event of Default.

10.2 If an Event of Default occurs, Plaintiffs may make an application pursuant to the New Jersey Rules of Court to enter and enforce the Confession of Judgment, and to have judgment entered against Mandalawi, Hakim and Seruya, in the amount of Seven Hundred Seventy-Nine Thousand Nine Hundred Thirteen and 93/100 Dollars (\$779,913.93), minus any amounts paid by CHW pursuant to Sections 9.2 and 9.3, plus Plaintiffs' attorneys' fees and costs.

#### **11. DISMISSAL OF ACTION**

11.1 The entry of this Consent Judgment constitutes a dismissal with prejudice of the Action, provided however, that the Court shall retain jurisdiction to enforce the terms of the Consent Judgment.

## **12. GENERAL PROVISIONS**

12.1 This Consent Judgment is entered into by the Parties as their own free and voluntary act and with full knowledge and understanding of the obligations and duties imposed by this Consent Judgment.

12.2 This Consent Judgment shall be governed by, and construed and enforced in accordance with, the laws of the State of New Jersey.

12.3 The Parties have negotiated, jointly drafted and fully reviewed the terms of this Consent Judgment and the rule that uncertainty or ambiguity is to be construed against the drafter shall not apply to the construction or interpretation of this Consent Judgment.

12.4 This Consent Judgment contains the entire agreement among the Parties. Except as otherwise provided herein, this Consent Judgment shall be modified only by a written instrument signed by or on behalf of the Plaintiffs and Defendants.

12.5 Except as otherwise explicitly provided for in this Consent Judgment, nothing herein shall be construed to limit the authority of the Attorney General to protect the interests of the State or the people of the State.

12.6 If any portion of this Consent Judgment is held invalid or unenforceable by operation of law, the remaining terms of this Consent Judgment shall not be affected.

12.7 This Consent Judgment shall be binding upon the Parties and their successors in interest. In no event shall assignment of any right, power or authority under this Consent Judgment avoid compliance with this Consent Judgment.

12.8 This Consent Judgment is agreed to by the Parties and entered into for settlement purposes only. Neither the fact of, nor any provision contained in this Consent Judgment nor any action taken hereunder shall constitute, or be construed as: (a) an approval, sanction or

authorization by the Attorney General, the Division, or any other governmental unit of the State of any act or practice of Defendants; and (b) an admission by Defendants that any of their acts or practices described in or prohibited by this Consent Judgment are unfair or deceptive or violate or are governed by the Consumer protection laws of the State. This Consent Judgment is not intended, and shall not be deemed, to constitute evidence or precedent of any kind except in any action or proceeding by one of the Parties to enforce, rescind or otherwise implement or affirm any or all of the terms of this Consent Judgment.

12.9 The Parties represent and warrant that their signatories to this Consent Judgment have authority to act for and bind the respective Parties.

12.10 Unless otherwise prohibited by law, any signatures by the Parties required for entry of this Consent Judgment may be executed in counterparts, each of which shall be deemed an original, but all of which shall together be one and the same Consent Judgment.

### **13. RELEASE**

13.1 In consideration of the injunctive relief, payments, undertakings, mutual promises and obligations provided for in this Consent Judgment and conditioned on CHW complying with the Additional Consumer Complaint Process pursuant to Section 7, and CHW making the Settlement Payment in the manner specified in Section 9, Plaintiffs hereby agree to release Defendants from any and all civil claims or Consumer related administrative claims, to the extent permitted by State law, which the Plaintiffs could have brought prior to the Effective Date against Defendants for violations of the CFA and the Advertising Regulations alleged in the Action, as well as the matters specifically addressed in Section 5 of the Consent Judgment (“Released Claims”).

13.2 Notwithstanding any term of this Consent Judgment, the following do not

comprise Released Claims: (a) actions to enforce this Consent Judgment; and (b) any claims against Defendants by any other agency or subdivision of the State.

#### **14. PENALTIES FOR FAILURE TO COMPLY**

14.1 The Attorney General (or designated representative) shall have the authority to enforce the provisions of this Consent Judgment, seek sanctions for violations of this Consent Judgment or both.

14.2 The Parties agree that any future violations by CHW, Mandalawi and Hakim of Section 5 and Seruya of Section 6 of this Consent Judgment, the CFA and/or the Advertising Regulations shall constitute a second or succeeding violation pursuant to N.J.S.A. 56:8-13, and that Defendants may be liable for enhanced civil penalties as provided therein.

#### **15. COMPLIANCE WITH ALL LAWS**

15.1 Except as provided in this Consent Judgment, no provision herein shall be construed as:

- (a) Relieving Defendants of their obligations to comply with all State laws, regulations or rules, as now constituted or as may hereafter be amended, or as granting permission to engage in any acts or practices prohibited by any such laws, regulations or rules; or
- (b) Limiting or expanding any right Plaintiffs may otherwise have to obtain information, documents or testimony from Defendants pursuant to any State law, regulation or rule, as now constituted or as may hereafter be amended, or limiting or expanding any right Defendants may otherwise have pursuant to any State law, regulation or rule, to oppose any process employed by Plaintiffs to obtain such information, documents or testimony.

#### **16. NOTICES UNDER THIS CONSENT JUDGMENT**

16.1 Except as otherwise provided herein, any notices or other documents required to be sent to the Parties pursuant to this Consent Judgment shall be sent by the United States Mail,

Certified Mail Return Receipt Requested, or other nationally recognized courier service that provides for tracking services and identification of the person signing for the documents. The notices and/or documents shall be sent to the following addresses:

For Plaintiffs:

David M. Reap, Deputy Attorney General  
Consumer Fraud Prosecution Section  
State of New Jersey  
Office of the Attorney General  
Department of Law and Public Safety  
Division of Law  
124 Halsey Street - 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, New Jersey 07101

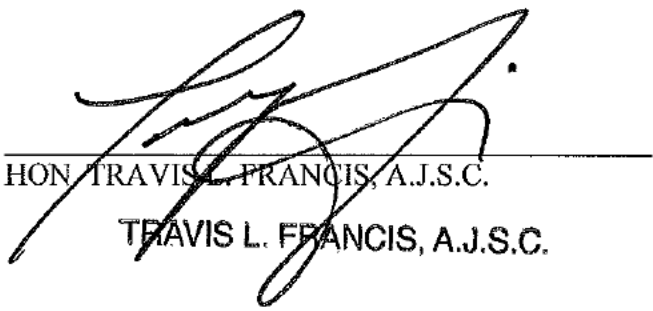
For CHW, Mandalawi and Hakim:

Lori Grifa, Esq.  
Archer & Greiner, P.C.  
Court Plaza South, West Wing  
21 Main Street, Suite 353  
Hackensack, New Jersey 07601

For Seruya:

Arnold Reiter, Esq.  
Reiter and Zipern  
Attorneys at Law  
75 Montbello Road  
Suffern, New York 10901

IT IS ON THE 9<sup>th</sup> DAY OF June 2015, SO ORDERED, ADJUDGED  
AND DECREED.

  
\_\_\_\_\_  
HON. TRAVIS L. FRANCIS, A.J.S.C.


TRAVIS L. FRANCIS, A.J.S.C.



JOINTLY APPROVED AND  
SUBMITTED FOR ENTRY:

FOR THE PLAINTIFFS:

JOHN J. HOFFMAN  
ACTING ATTORNEY GENERAL OF NEW JERSEY

By:   
David M. Reap  
Deputy Attorney General  
Consumer Fraud Prosecution Section

Dated: May 21, 2015

124 Halsey Street - 5<sup>th</sup> Floor  
P.O. Box 45029  
Newark, New Jersey 07101

FOR DEFENDANTS CHW GROUP, INC.  
D/B/A CHOICE HOME WARRANTY,  
VICTOR MANDALAWI AND VICTOR HAKIM:

ARCHER & GREINER, P.C.

By: \_\_\_\_\_  
Lori Grifa, Esq.

Dated: \_\_\_\_\_, 2015

Court Plaza South, West Wing  
21 Main Street, Suite 353  
Hackensack, New Jersey 07601

JOINTLY APPROVED AND  
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ACTING ATTORNEY GENERAL OF NEW JERSEY

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D/B/A CHOICE HOME WARRANTY,  
VICTOR MANDALAWI AND VICTOR HAKIM:

ARCHER & GREINER, P.C.


By: \_\_\_\_\_

Lori Grifa, Esq.

Court Plaza South, West Wing  
21 Main Street, Suite 353  
Hackensack, New Jersey 07601

Dated: May 21, 2015

OVED & OVED, LLP

By:   
\_\_\_\_\_  
Darren Oved, Esq.

Dated: 5/21, 2015

401 Greenwich Street  
New York, New York 10013

CHW GROUP, INC. D/B/A CHOICE HOME WARRANTY

By: \_\_\_\_\_  
Victor Mandalawi, President

Dated: \_\_\_\_\_, 2015



VICTOR MANDALAWI

By: \_\_\_\_\_  
Victor Mandalawi

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
\_\_\_\_\_

VICTOR HAKIM

By: \_\_\_\_\_  
Victor Hakim

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
\_\_\_\_\_

OVED & OVED, LLP

By: \_\_\_\_\_ Dated: \_\_\_\_\_, 2015  
Darren Oved, Esq.

401 Greenwich Street  
New York, New York 10013

CHW GROUP, INC. D/B/A CHOICE HOME WARRANTY

By:  \_\_\_\_\_ Dated: 5/21, 2015  
Victor Mandalawi, President



VICTOR MANDALAWI

By:  \_\_\_\_\_ Dated: 5/21, 2015  
Victor Mandalawi

\_\_\_\_\_  
\_\_\_\_\_

VICTOR HAKIM

By:  \_\_\_\_\_ Dated: 5/21, 2015  
Victor Hakim

\_\_\_\_\_  
\_\_\_\_\_

**QUIANA PITTMAN**  
**NOTARY PUBLIC OF NEW JERSEY**  
**ID # 2437848**  
My Commission Expires 8/28/2018

FOR DEFENDANT DAVID SERUYA:

REITER AND ZIPERN  
ATTORNEYS AT LAW

By: \_\_\_\_\_

Arnold Reiter, Esq.

Dated: \_\_\_\_\_, 2015

May 21

75 Montbello Road  
Suffern, New York 10901

DAVID SERUYA

By: \_\_\_\_\_

David Seruya

Dated: \_\_\_\_\_, 2015

\_\_\_\_\_  
\_\_\_\_\_

FOR DEFENDANT DAVID SERUYA:

REITER AND ZIPERN  
ATTORNEYS AT LAW

By: \_\_\_\_\_  
Arnold Reiter, Esq.

Dated: \_\_\_\_\_, 2015

  
75 Montbello Road  
Suffern, New York 10901

DAVID SERUYA

By:  \_\_\_\_\_  
David Seruya

Dated: \_\_\_\_\_, 2015

