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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

8 JEFFREY SCHULKEN AND JENIFER )  
9 SCHULKEN, an individual, on their own )  
behaves and on behalf of all others similarly )  
situated, )

10 Plaintiff,

11 v. )

12 WASHINGTON MUTUAL BANK, )  
13 HENDERSON, NEVADA, JPMORGAN CHASE )  
BANK, N.A., )

14 Defendants. )

No.

**CLASS ACTION COMPLAINT  
AND JURY DEMAND**

15 Jeffrey and Jenifer Schulken (the “Schulkens” or “Plaintiffs”), for their complaint, alleges  
16 as follows upon information and belief, based upon, *inter alia*, investigation conducted by their  
17 attorneys, except as to those allegations pertaining to Plaintiffs and thier counsel personally, which  
18 are alleged upon personal knowledge:

19 **Introduction**

20 1. This case is about Defendants’ use of false pretenses to illegally suspend and  
21 reduce credit limits on home equity lines of credit (“HELOCs”) across the country. JPMorgan  
22 Chase Bank, N.A. (“Chase”), and its recently acquired division, Washington Mutual Bank  
23 (“WAMU”) (collectively “Defendants”), in an attempt to limit their exposure to the risk of  
24 collapse in the United States housing market, have violated Regulation Z and the Truth in Lending  
25 Act and have broken contractual promises to their HELOC account holders (collectively the  
26 “Class Members”) by claiming that their customers’ financial circumstances had materially  
27 changed (when they in fact had not) such that the customers would not be able to meet their loan  
28



1 It is important that you provide this information. Thank you for your  
2 cooperation....

3 (See “March 13, 2009 Income Verification Request,” a true and accurate copy of which is attached  
4 as Exhibit A.)

5 4. Plaintiffs submitted the necessary information shortly thereafter. On March 19,  
6 2009, just six days after the date of the Defendants’ initial letter, Plaintiffs learned that Defendants  
7 had frozen their HELOC while checking their account online. Plaintiffs then received a letter in  
8 an envelope post-marked March 19, 2009. Inside was a letter dated March 18, 2009, notifying  
9 Plaintiffs that their line was being suspended for their failure to submit all the paperwork specified  
10 in the letter of March 13, 2009. (See “Suspension Letter of March 18, 2009,” a true and accurate  
11 copy of which is attached as Exhibit B.) During repeated telephone calls to Defendants’ customer  
12 service personnel, Chase and WAMU subsequently explained that they had not received the  
13 necessary documentation, despite the fact their Income Verification Request had requested the  
14 documents be provided within 14 days.

15 5. Chase and WAMU lacked a sound factual basis for sending these letters and  
16 reducing or freezing their customers’ HELOC limits. Defendants knowingly and intentionally  
17 falsely claimed that their customers’ financial circumstances had changed so as to “trigger” Chase  
18 and WAMU’s right to freeze or lower the credit limits. As a result, Defendants, in violation of  
19 federal law, reduced the credit limits and/or froze the HELOC accounts of many homeowners,  
20 including Plaintiffs, whose financial circumstances had not materially worsened so as give  
21 Defendants a reasonable basis for concluding the Plaintiffs and other accountholders would be  
22 unable to meet the terms of their loans.

23 6. Although federal law allows the creditor to freeze or reduce the line where the  
24 creditor reasonably believes that the consumer will be unable to make payments as agreed because  
25 of a material change in the consumer’s financial circumstances, this exception requires both a  
26 material change in a borrower’s financial situation and the creditor’s reasonable belief that the  
27 borrower will not be able to repay the HELOC account as agreed. With respect to Plaintiff and the  
28 Class, Defendants froze accounts and reduced credit limits where no material changes in the

1 borrowers' financial situations had occurred and the Defendants did not have a reasonable belief  
2 that the borrowers would be unable to repay their HELOC accounts as agreed. As a result,  
3 Defendants' intentional systematic, freezing and mass reduction on the limits on their customers'  
4 HELOCs and their use of standards that are inconsistent with Regulation Z was and remains  
5 illegal.

6 7. Defendants' HELOC reductions are not only illegal; they are patently  
7 unconscionable. On October 3, 2008, Congress passed the Emergency Economic Stabilization  
8 Act of 2008, Pub. L. No. 110-343. As part of this law, Chase obtained, on information and belief,  
9 approximately \$25 billion from an unprecedented \$700 billion bailout funded entirely by  
10 American taxpayers. The rationale advanced for the bailout by its proponents was that the banks  
11 needed the money to ensure liquidity in the face of the worsening subprime mortgage disaster.

12 8. Despite Chase's statements to Congress to the contrary, Defendants have  
13 intentionally failed to meet their obligations to their customers and have intentionally deprived  
14 those customers of crucial affordable consumer credit at a critical time.

15 9. In stark contrast, Defendants' HELOC borrowers such as Plaintiff, like most  
16 American consumers, are struggling in a faltering economy, yet they continue to meet their  
17 mortgage obligations. These customers have incurred appraisal fees, an increased price of credit  
18 and reduced credit scores, lost interest and other damages.

#### 19 **Parties**

20 10. **Plaintiffs Jeffrey and Jenifer Schulken:** Plaintiffs maintain their primary  
21 residence in Cupertino, CA (the "subject matter property"). In or around October 2005, Plaintiffs  
22 obtained a HELOC in the amount of \$250,000 secured by the subject matter property.

23 11. **Defendant Washington Mutual Bank, Henderson, Nevada:** WAMU is a  
24 national banking association with its main office located at 2273 North Green Valley Parkway  
25 Henderson, Nevada, 89014. On September 25, 2008, the United States Office of Thrift  
26 Supervision (OTS) seized WAMU from its holding company, Washington Mutual, Inc., and  
27 placed WAMU into the receivership of the Federal Deposit Insurance Corporation ("FDIC"). The  
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1 FDIC sold the banking subsidiaries, minus unsecured debt or equity claims, to Chase for \$1.9  
2 billion. Chase specifically assumed “all mortgage servicing rights and obligations of” WAMU,  
3 including WAMU’s HELOC accounts. WAMU is now operated as a subsidiary and/or division of  
4 co-Defendant Chase.

5 12. **Defendant JPMorgan Chase Bank, N.A.:** Chase is a national banking  
6 association with its main office located at 1111 Polaris Parkway Columbus, OH 43240. Under the  
7 Purchase and Assumption Agreement, Chase specifically assumed “all mortgage servicing rights  
8 and obligations of” WAMU, including WAMU’s HELOC accounts. Chase operates and/or  
9 controls WAMU as a subsidiary and/or division.

#### 10 **Jurisdiction and Venue**

11 13. This Court has subject matter jurisdiction over this case under 28 U.S.C. §  
12 1332(d)(2). This Complaint alleges claims on behalf of a national class of homeowners who are  
13 minimally diverse from Defendants. On information and belief, the aggregate of these claims  
14 exceeds the sum or value of \$5,000,000. This Court further has federal question subject matter  
15 jurisdiction under 28 U.S.C. § 1331 as this action arises in part under Regulation Z of the Truth in  
16 Lending Act, 15 U.S.C. § 1647, 12 C.F.R. § 226.5(b). This Court has supplemental subject matter  
17 jurisdiction over the pendent state law claims under 28 U.S.C. § 1367.

18 14. a. Defendant WAMU is a national banking association whose main offices are  
19 in Nevada, and is considered a citizen of Nevada for the purposes of diversity jurisdiction under  
20 28 U.S.C. § 1348 and *Wachovia Bank, N.A. v. Schmidt*, 546 U.S. 303 (2006).

21 b. Defendant Chase is a national banking association whose main offices are  
22 in Ohio, and is considered a citizen of Ohio for the purposes of diversity jurisdiction under 28  
23 U.S.C. § 1348 and *Wachovia Bank*, 546 U.S. 303.

24 15. Venue is also proper before this Court under 28 U.S.C. § 1391(b)(2) as a  
25 substantial part of the events, circumstances, and omissions giving rise to these claims occurred in  
26 this District.

27 16. This Court has personal jurisdiction over Defendants under Cal. Code Civ. Proc. §  
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1 410.10 because some of the acts alleged herein were committed in California (specifically in the  
2 Central District of California), and because Defendants are registered to do business in this state  
3 and actively conduct business in this District.

#### 4 **Allegations as to Plaintiff's Individual Claims**

5 17. In October 2005, Plaintiffs obtained a HELOC agreement secured by the subject  
6 matter premises in the amount of \$250,000.

7 18. On March 13, 2009 Plaintiffs received an Income Verification Request letter from  
8 Defendants seeking certain financial information within 14 days. (See Ex. A.)

9 19. Plaintiffs complied with the Income Verification Request and submitted financial  
10 information over the next several days via facsimile.

11 20. On March 19, 2009, Plaintiffs discovered, while checking their account via the  
12 Defendants' website, that their HELOC had been suspended. The next day, Plaintiffs received a  
13 letter apparently mailed March 19, 2009 and dated March 18, 2009 that notified the Plaintiffs that  
14 their line was being suspended for their failure to submit all the paperwork specified in the letter  
15 of March 13, 2009. (See Ex B.)

16 21. Prior to the HELOC suspension but before notice, Plaintiffs had issued a check to  
17 pay their credit card. This check was dishonored and the Plaintiffs incurred finance charges as a  
18 result.

19 22. Following the suspension, Plaintiffs repeatedly contacted customer service and  
20 were provided confusing and often conflicting reasons for how Defendants had determined the  
21 Plaintiffs' income justified the suspension. Plaintiffs were also given inconsistent information  
22 with respect to the papers needed by the Defendants to review the account for potential  
23 reinstatement. Plaintiffs ultimately sent via facsimile over 75 pages worth of financial  
24 documentation to Defendants, who steadfastly refused to remove the suspension.

25 23. At no time did Plaintiffs' income materially change or decrease, and at no time did  
26 the Defendants' have a reasonable basis for concluding Plaintiffs, who had always made timely  
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1 payments on all their loans, would not be able to meet the terms of their loan agreement. Despite  
2 repeated requests, Defendants have refused to remove the suspension.

3 24. Plaintiffs' HELOC with Defendants was his primary line of credit. Defendants'  
4 reduction of the credit limits on the Schulken's HELOC dramatically increased the ratio of credit  
5 the Schulkens used to the amount of credit he had available. In turn, on information and belief,  
6 Defendants' acts drove up Schulken's Credit Utilization Rate ("CUR"), a major component of  
7 their credit rating. In addition to depriving the Schulkens of the availability of their HELOC,  
8 Defendants' acts damaged their credit rating and increased the cost of credit to them.

### 9 **Class Certification Allegations**

10 25. Plaintiff seeks certification of a class and one subclass under both Fed. R. Civ. P.  
11 23(b)(2) and Rule 23(b)(3).

12 26. **Definition of the Class and Subclass:** Pursuant to Fed. R. Civ. P. 23:

13 A. The Schulkens bring this Complaint against Defendants on behalf of the "Class,"  
14 consisting of:

15 All WAMU and Chase HELOC borrowers in the United States who received from  
16 WAMU or Chase a letter requesting the borrowers submit financial information  
17 within 14 days who then had their lines suspended or their credit limits reduced  
prior to the expiration of the 14 day period.

18 Excluded from the Class are 1) any Judge or Magistrate presiding over this action and members of  
19 their families; 2) Defendants, Defendants' subsidiaries, parent companies, successors,  
20 predecessors, and any entity in which Defendants or their parent companies have a controlling  
21 interest and their current or former employees, officers and directors; 3) persons who properly  
22 execute and file a timely request for exclusion from the class; 4) the legal representatives,  
23 successors or assigns of any such excluded persons; and 5) HELOC accountholders who have had  
24 their credit line(s) restored.

25 Plaintiff anticipates that amending the Class and Subclass definitions may become  
26 necessary following discovery.

27 27. **Numerosity:** The exact number of the members of the Class and Notice Subclass  
28 is unknown and is not available to the Schulkens, but it is clear that individual joinder is

1 impracticable. Defendants sent their generic credit line reduction letters to thousands of  
2 mortgagors, and a substantial percentage of the recipients of these letters fall into the definition of  
3 the Class and Subclass. Class members can be easily identified through Defendants' records and  
4 public records.

5       28.     **Commonality:** Common questions of fact and law exist as to all members of the  
6 Class and predominate over the questions affecting only individual members. These common  
7 questions include:

- 8       (a)     What were Defendants' criteria for reducing the credit limits on their HELOCs;
- 9       (b)     Whether Defendants reducing HELOC limits or suspended HELOC accounts based  
10            on purported material changes in come without a reasonable basis for concluding  
11            such a material change had in fact occurred;
- 12       (c)     Whether Defendants' criteria for reducing HELOC credit limits and/or suspending  
13            HELOC accounts based on phantom material changes in accountholder finances  
14            violated Regulation Z;
- 15       (d)     Whether Defendants' reduction of the credit limits or account suspensions for  
16            purported material changes in income breached the terms of its HELOC  
17            agreements;
- 18       (e)     Whether Defendants' HELOC agreement terms imposed contractual obligations on  
19            Defendants to comply with Regulation Z;
- 20       (f)     Whether Defendants' reduction of the credit limits on their HELOC agreements  
21            was unfair and unlawful;
- 22       (g)     Whether in those cases where a material change in financial circumstances had in  
23            fact occurred, Defendants had a reasonable basis for concluding the material  
24            changes would render such customers unable to meet the terms of their HELOC  
25            agreements.
- 26       (h)     Whether Defendants' contracts and policies improperly purport to allow them to  
27            reduce credit limits or freeze HELOC accounts due to immaterial declines in  
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1 property values or otherwise use triggering events inconsistent with federal law;  
2 (i) Whether the Schulkens and the Class members are entitled to relief, and the nature  
3 of such relief.

4 29. **Typicality:** The Schulkens’s claims are typical of the claims of other members of  
5 the Class as the Schulkens and other members sustained damages arising out of the wrongful  
6 conduct of Defendants, based upon the same transactions which were made uniformly to the  
7 Schulkens and the public. The California and federal laws under which the Schulkens’s claims  
8 arise do not conflict with the laws of any other state in any material way.

9 30. **Adequate Representation:** Plaintiff will fairly and adequately represent and  
10 protect the interests of the members of the Class, and has retained counsel competent and  
11 experienced in complex class actions. Plaintiff has no interest antagonistic to those of the Class or  
12 the Subclasses and Defendants have no defenses unique to Plaintiff.

13 31. **Predominance and Superiority:** This class action is appropriate for certification  
14 because class proceedings are superior to all other available methods for the fair and efficient  
15 adjudication of this controversy, since joinder of all members is impracticable. The damages  
16 suffered by the individual members of the Class will likely be relatively small, especially given  
17 the burden and expense of individual prosecution of the complex litigation necessitated by the  
18 actions of Defendants. It would be virtually impossible for the individual members of the Class to  
19 obtain effective relief from the misconduct of Defendants. Even if members of the Class  
20 themselves could sustain such individual litigation, it would still not be preferable to a class  
21 action, because individual litigation would increase the delay and expense to all parties due to the  
22 complex legal and factual controversies presented in this Complaint. By contrast, a class action  
23 presents far fewer management difficulties and provides the benefits of single adjudication,  
24 economy of scale, and comprehensive supervision by a single Court. Economies of time, effort,  
25 and expense will be fostered and uniformity of decisions will be ensured.

26 32. **Policies Generally Applicable to the Class:** This class action is also appropriate  
27 for certification because Defendants have acted or refused to act on grounds generally applicable  
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1 to the Class, thereby making appropriate final injunctive relief or corresponding declaratory relief  
2 with respect to Class as a whole. The policies of Defendants challenged herein apply and affect  
3 members of both Class uniformly, and Plaintiff's challenge of these policies hinges on  
4 Defendants' conduct, not on facts or law applicable only to Plaintiff.

5 **Count I: Declaratory Relief Under TILA and Regulation Z**  
6 **(on behalf of the Schulzens and the Class against WAMU and Chase)**

7 33. Plaintiffs incorporate the above allegations by reference.

8 34. The Truth-in-Lending Act ("TILA") and its implementing regulation (Regulation  
9 Z) prohibit Defendants from changing any of the terms of a mortgage or HELOC, including the  
10 credit limit. 15 U.S.C. § 1647(c)(1); 12 C.F.R. § 226.5b(f)(3).

11 35. There is an exception under TILA and Regulation Z for any period in which  
12 creditor reasonably believes that the consumer will be unable to make payments as agreed because  
13 of a material change in the consumer's financial circumstances. This exception requires both a  
14 material change in a borrower's financial situation and the creditor's reasonable belief that the  
15 borrower will not be able to repay the HELOC account as agreed. 15 U.S.C. § 1647; 12 C.F.R. §  
16 226.5(b)(3)(vi), comment 7. Regulation Z permits an association to suspend or reduce a HELOC  
17 account only when the designated circumstances exist, and the regulatory commentary emphasizes  
18 that credit privileges must be timely reinstated when those circumstances cease.

19 36. Before reducing the limits of their customers' HELOCs, Defendants had the  
20 obligation to both ensure that the customers' financial circumstances had in fact materially  
21 changed and that if those circumstances had materially changed, that they would render reasonably  
22 render the customers unable to meet the terms of the agreement. The Defendants' practice of  
23 asking for financial documentation within a certain number of days, and then suspending the line  
24 prior to the expiration of those deadlines, and then claiming they have not been provided the  
25 necessary information, violates these duties.

26 37. Plaintiffs and the Class members have been harmed by being denied credit at a  
27 necessary time and incurred damages, such as returned/dishonored check fees and finance charges,  
28 due to the Defendants' unfair notice scheme.



1 HELOCs violated the Truth-in-Lending Act and Regulation Z.

2 44. Defendants' violations of the Truth-in-Lending Act and Regulation Z damaged the  
3 Schulkens and the other Class members. These damages occurred in the form of the increased  
4 price of credit, adverse effects on credit scores, dishonored check and finance charges, and other  
5 damages.

6 45. The Schulkens, on their own behalf and behalf of the other Class members, seek  
7 actual damages under 15 U.S.C. § 1640(a)(1), statutory damages under 15 U.S.C. § 1640(a)(2)  
8 (B), and costs of the action, together with a reasonable attorney's fees under 15 U.S.C. §  
9 1640(a)(3).

10 **Count III: Violation of the TILA and Regulation Z**  
11 **(on behalf of the Schulkens and the Class against WAMU and Chase)**

12 46. Plaintiff incorporates the above allegations by reference.

13 47. Where a creditor prohibits additional extensions of credit or reduces the credit  
14 limit, "the creditor shall mail or deliver written notice of the action to each consumer who will be  
15 affected. The notice must be provided not later than three business days after the action is taken  
16 and shall contain specific reasons for the action." Regulation Z, 12 C.F.R. § 226.9(c)(3).

17 48. On information and belief, Defendants provided Plaintiff and the members of the  
18 Class notices of their HELOC reductions which were untimely and/or that did not contain specific  
19 reasons for the action in violation of 12 C.F.R. § 226.9(c)(3).

20 49. The notices fail to provide HELOC customers with enough information to  
21 determine the specific reasons for the Defendants' actions.

22 50. Defendants' violations of the Truth-in-Lending Act and Regulation Z damaged the  
23 Schulkens and the other Class members. These damages occurred in the form of the increased  
24 price of credit, adverse effects on credit scores, dishonored check and finance charges, and other  
25 damages.

26 51. The Schulkens, on his own behalf and behalf of the other Class members, seeks  
27 actual damages under 15 U.S.C. § 1640(a)(1), statutory damages under 15 U.S.C. § 1640(a)(2)  
28 (B), and costs of the action, together with a reasonable attorney's fee under 15 U.S.C. §

1 1640(a)(3).

2 **Count IV: Breach of Contract**  
3 **(on behalf of the Schulkens and the Class against WAMU and Chase)**

4 52. Plaintiff incorporates the above allegations by reference.

5 53. The Schulkens and the other Class members obtained HELOCs from Defendants.  
6 The terms of these HELOCs constitute a contract between the Class members and Defendants.

7 54. The HELOC agreements contain a term that tracks Regulation Z and provides the  
8 Defendants may reduce the or suspend additional extensions of credit during times when the  
9 Defendants “(b) ...reasonably believe that you will be unable to fulfill your payment obligations  
10 under this Agreement due to a material adverse change in your financial circumstances.”

11 55. The Schulkens and the other Class members made all payments due to Defendants  
12 and otherwise fully performed under their HELOCs with Defendants.

13 56. The availability of credit and the triggering events the lender could use to suspend  
14 credit extensions were material terms.

15 57. Defendants materially breached the terms of the HELOCs by suspending the  
16 HELOC accounts for the Schulkens and other Class members’ HELOCs where no material  
17 adverse change in financial circumstances had first occurred that would give Defendants a  
18 reasonable basis for believing the borrowers would be unable to fulfill their payment obligations  
19 under their agreements.

20 58. As a result, the Schulkens and the other Class members have suffered damages in  
21 the form of the increased price of credit, lost interest, attorneys' fees, adverse effects on Plaintiff's  
22 credit score, finance charges and dishonored check fees, and other damages.

23 59. The Schulkens, on his own behalf and behalf of the other Class members, seeks  
24 damages for Defendants’ breach of contract, as well as interest and attorney’s fees and costs  
25 pursuant to Cal. Code Civ. Proc. § 1021.5.

26 **Count V: Breach of Implied Covenants**  
27 **(on behalf of the Schulkens and the Class against WAMU and Chase)**

28 60. Plaintiff incorporates the above allegations by reference.

1           61.     The Schulkens and the other Class members obtained HELOCs from Defendants.  
2 The terms of these HELOCs constitute a contract between the Class members and Defendants.

3           62.     Implicit in the HELOC agreements were contract provisions that prevented the  
4 Defendants from engaging in conduct which frustrates the Class members' rights to the benefits of  
5 the contract or which would injure the right of the Class members' to receive the benefits of their  
6 HELOCs.

7           63.     The availability of credit and the triggering events the lender could use to suspend  
8 credit extensions were material terms of the Class members' HELOCs. Defendants breached the  
9 implied covenant of good faith and fair dealing in the HELOCs by suspending the HELOC  
10 accounts for the Schulkens and other Class members without the customers first having had  
11 experienced an adverse material change in their finances or the Defendants having a reasonable  
12 belief for claiming such an adverse change would render the borrowers unable to meet their  
13 obligations under the agreements.

14           64.     Defendants further breached the implied covenant of good faith and fair dealing to  
15 the Subclass by failing to provide sufficiently specific notice and by failing to provide customers  
16 with material information regarding rationale and values used to justify the reductions or  
17 suspensions.

18           65.     Implicit in the HELOC agreements were contract terms that required Defendants to  
19 follow Regulation Z.

20           66.     Defendants' breach of Regulation Z and the implicit HELOC covenants caused the  
21 Schulkens and other Class members to incur damages in the form of the increased price of credit,  
22 adverse effects on Plaintiffs' credit score, dishonored check and finance charges, and other  
23 damages.

24           69.     The Schulkens, on their own behalf and behalf of the other Class, seeks damages  
25 for Defendants' breach of the implied covenant of good faith and fair dealing, as well as interest  
26 and attorney's fees and costs pursuant to Cal. Code Civ. Proc. § 1021.5.

27                   **Count VI: Violation of California's UCL, Cal. Bus. & Prof. Code § 17200**  
28                   **(on behalf of the Schulkens and the Class)**

1           70.     Plaintiffs incorporate the above allegations by reference.

2           71.     Defendants' reduction of the credit limit for the Schulkens and other Class  
3 members' HELOCs violated TILA and Regulation Z. With respect to the Class, Defendants'  
4 practice of requesting financial information by a deadline, and then proceeding to suspend  
5 accounts based on purported failures to submit the requested information well before the deadline  
6 was deceptive and untrue. These unlawful, deceptive, and unfair acts and practices constitute  
7 unfair competition in violation of the UCL.

8           72.     Defendants have engaged in unfair, unlawful and fraudulent business acts and  
9 practices as set forth above.

10          73.     Defendants have violated the "unfair" prong of the UCL in that Defendants' actions  
11 caused substantial injury to consumers; the injury caused by Defendants' conduct is not  
12 outweighed by any countervailing benefits to consumers or competition; and the injury is one that  
13 consumers themselves could not reasonably have avoided.

14          74.     Defendants have violated the "fraudulent" prong of the UCL in that Defendants'  
15 statements regarding the availability of credit through the HELOCs were false and were likely to  
16 deceive a reasonable consumer. Further, Defendants' statements regarding any potential future  
17 reduction of credit through the HELOCs would only occur through a material adverse change in  
18 financial conditions were false and were likely to deceive a reasonable consumer.

19          75.     Defendants have violated the "unlawful" prong of the UCL in that Defendants'  
20 conduct was undertaken in violation of TILA and Regulation Z.

21          76.     Defendants' violations of the UCL caused the Schulkens and the other Class  
22 members to pay money to Defendants in the form of fees, lost interest, opportunity, adversely  
23 impacted credit and other damages.

24          77.     Plaintiff and the Class members have suffered adverse effects their credit scores,  
25 finance charges from dishonored checks, attorneys' fees and other damages.

26          78.     The Schulkens, on their own behalf and behalf of the other Class members, seek an  
27 order preliminarily and permanently enjoining Defendants' unfair competition alleged herein and  
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1 requiring Defendants to restore HELOC credit limits and cease freezing HELOCs in violation of  
2 Regulation Z, and individual restitution of property gained by such unfair competition under the  
3 UCL (Cal. Bus. & Prof. Code § 17203), as well as interest and attorney’s fees and costs pursuant  
4 to Cal. Code Civ. Proc. § 1021.5.

5 WHEREFORE, Plaintiffs pray that the Court enter judgment and orders in their favor and  
6 against Defendants as follows:

- 7 (a) Certifying the action as a class action and designating Plaintiff and his counsel as  
8 representatives of the Class and Subclass;
- 9 (b) Declaratory judgment under 27 U.S.C. § 2201 on Count I that the Defendants’  
10 HELOC reductions violate federal law;
- 11 (c) Statutory damages under 15 U.S.C. § 1640(a)(2)(B) for Count II;
- 12 (d) Actual damages on Counts II, III, IV, IV and VI for the Class including but not  
13 limited to appraisal fees, the increased price of credit, NSF fees, attorney’s fees,  
14 interest and other damages in an amount to be proved at trial;
- 15 (e) Preliminary and permanent equitable and injunctive relief for the Class, including  
16 enjoining the Defendants from further violations of Regulation Z and restoration of  
17 HELOC credit limits, including restitution of property gained by the unfair  
18 competition alleged herein, and an order for accounting of such property;
- 19 (f) Awarding pre- and post-judgment interest; and
- 20 (g) Granting such other and further relief as the Court may deem just and proper

21 **JURY TRIAL DEMAND**

22 The Plaintiff hereby demands a trial by jury of all issues so triable.

23  
24  
25 Dated: June , 2009

26 By:

27 Alan Himmelfarb (Cal. Bar. No. 90480)  
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