

XXX Mortgage Association Inc.
Attention:

Suite
Dallas, Texas

CERTIFIED MAIL NO.

Re: *Richard YYY and the sale of _____ Drive, Arlington, Texas*

Dear XXX Mortgage Association Inc.:

This firm has been retained by Richard YYY to prosecute legal action against you for damages.

On or about May 19, 2001, Richard YYY entered into a Contract for Deed with ZZZ, Inc. and John Billard, for the purchase of _____ Drive, Arlington, Texas, ("the Property") more particularly described as Lot _____, an Addition to the City of Arlington, Tarrant County, Texas, according to the Plat recorded in _____, Plat Records, Tarrant County, Texas; a true and correct copy of the Contract for Deed has been marked "**EXHIBIT A**" and is attached to this instrument.

On or about May __, 20__, Richard YYY paid John Billard and ZZZ, Inc. a down payment of \$12,350.00 for the purchase of the property. At all relevant times John Billard claimed to be the President of ZZZ, Inc. and to own the property.

In or about May 2001, John Billard, acting independently and in the course and scope of his employment with ZZZ, Inc. recommended that Richard YYY engage Matt Doe and XXX Mortgage Association, Inc. to handle the purchase of the Property with a conventional mortgage. Richard YYY acted on that advice. Mr. YYY in ignorance of the true intentions of John Billard, ZZZ, Inc., Matt Doe and XXX Mortgage Association, Inc. to prevent the sale of the property to him and to defraud him of the deposit and periodic payments made in accordance with the contract for deed.

From or about June 20__ through or about September 20__, Richard YYY attempted to purchase the property through Matt Doe and XXX Mortgage Association, Inc. During this time period, Matt Doe and XXX Mortgage Association, Inc., with the

assistance of John Billard and ZZZ , Inc engaged in a number of fraudulent tactics to delay and prevent the completion of the sale. These included, without limitation, the following:

- (1) Asking for required documentation sequentially rather than providing a comprehensive list of required documentation.
- (2) When the required documentation was finally assembled, refusing, in or about September 20__ to complete the transaction because, they claimed, they were too busy with refinancing applications to meet their obligations to Richard YYY .
- (3) Failing to advise Richard YYY that they were able to process his mortgage application until in or about March 20__, and then demanding current documentation of the matters that were in their hands and current in September 20__.

Despite the false assurances of John Billard and ZZZ , Inc., Matt Doe and XXX Mortgage Association, Inc. refused to perform as obligated to Richard YYY . To the contrary they advised him that they were unable to close the purchase of the house because of unspecified, "title problems." This adYYY was false and was made in furtherance of the conspiracy between John Billard, ZZZ , Inc., Matt Doe and XXX Mortgage Association, Inc to deprive Richard YYY of as many payments that could be gotten from him as well as the down payment he had made to John Billard, and ZZZ , Inc.

On or about September 3, 2002, John Billard and ZZZ , Inc. sold the property to a third party, Mr. and Mrs. Brooks. The warranty deed made no reference to the existing contract for deed, but thereafter, the Brooks accepted payments on the contract for deed from Richard YYY .

On or about September 4, 2002, John Billard and ZZZ , Inc. told Richard YYY that the Brooks were and had been the true owners of the property and that John Billard was a licensed real estate broker who had been acting on their behalf throughout the transaction. Both of these allegations were untrue. In that same conversation, Richard YYY asked if his deposit had been given to the Brooks. John Billard admitted that it had not and when

asked for its return, further admitted that he had used to money on improvements for his office and it was neither going to be returned to Richard YYY nor provided to the Brooks.

Subsequently Richard YYY was forced to leave the property, forfeiting everything he had invested in it.

As a consequence of your wrongful acts and omissions in misrepresenting the quality and timeliness of your work, as well as your harassing attempts to collect on an alleged debt, my client has incurred substantial damages.

In his dealings with you, Richard YYY contracted with you for goods and serYYY s. Accordingly, in this transaction Richard YYY was clearly a “consumer” as such term is defined in Section 17.45, TEXAS BUSINESS & COMMERCE CODE.

Richard YYY asserts that you committed a number of false, misleading or deceptive acts and practices prohibited by Section 17.46 of the TEXAS BUSINESS & COMMERCE CODE (the Texas Consumer Protection – Deceptive Trade Practices Act) including, but not limited to, the following:

1. Representing that goods or services have characteristics, uses, or benefits which they do not have, in violation of TEXAS BUSINESS & COMMERCE CODE § 17.46(b)(5);
2. Representing that goods or services are of a particular standard, quality, or grade, if they are of another, in violation of TEXAS BUSINESS & COMMERCE CODE § 17.46(b)(7);
3. Advertising goods or services with intent not to sell them as advertised, in violation of TEXAS BUSINESS & COMMERCE CODE § 17.46(b)(9);
4. Representing that an agreement confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law, in violation of TEXAS BUSINESS & COMMERCE CODE § 17.46(b)(12);
5. Failing to disclose information concerning goods or services which was known at the time of the transaction thereby intending to induce Mr. YYY into entering into the referenced agreement, knowing that he would not have entered into such agreement had such information been disclosed, in violation of TEXAS BUSINESS & COMMERCE CODE § 17.46(b)(24).

6. Failing to provide Richard YYY with a Seller's Disclosure of Property Condition as mandated by § 5.069, TEXAS PROPERTY CODE, and you failed to record said **Seller's** Disclosure of Property Condition in the Tarrant County Deed Records within 30 days of the execution of the "Agreement for Deed" in violation of § 5.076, TEXAS PROPERTY CODE;
7. Failing to provide Richard YYY with a Seller's Disclosure of Financing Terms as mandated by § 5.071, TEXAS PROPERTY CODE;
8. You purported to sell property that you did not, and do not exclusively own; and
9. Failing to record the "Agreement for Deed" in the Tarrant County Deed Records within 30 days of its execution in violation of § 5.076, TEXAS PROPERTY CODE.

The foregoing violations were committed knowingly and intentionally, and Richard YYY relied on your representations, acts, and omissions to his damage and detriment.

Further, the representations, acts, and omissions made by you in your dealings with Richard YYY constituted an "unconscionable action or course of action" as such term is defined in Section 17.45(5), TEXAS BUSINESS & COMMERCE CODE.

In addition to constituting numerous violations of the Texas Consumer Protection – Deceptive Trade Practices Act, the above-described acts and omissions made by you constituted, among other things: misrepresentation; negligence; negligent misrepresentation; constructive fraud; breach of contract; breach of express warranty; breach of implied warranty; breach of implied warranty of authority, fraud; and breach of duty of good faith and fair dealing.

As a direct result of your wrongful acts and omissions, Richard YYY has been compelled to retain the services of this firm to seek redress for the damages they have suffered. As of the date of this writing, the fee for the legal services and related costs incurred in this matter is \$2,000.00.

Therefore, the total damages thus far suffered by Mr. YYY as a direct consequence of your fraudulent acts is \$59,843.00, itemized as follows:

1. Down payment: \$12,350.00;

2. Monthly payments of \$1,017.00 made under the Contract for Deed starting on June 1, 20__ and ending on November 1, 20__: \$ 29,493.00;
3. Home improvements: \$11,000.00;
4. Mental anguish: \$5,000.00; and
5. Attorney fees incurred to date in the amount of \$2,000.00 in connection with investigating and pursuing this claim.

Demand is hereby made upon John Billard, ZZZ , Inc., Matt Doe and XXX Mortgage Association, Inc., jointly and severally, to immediately pay the total amount of damages sustained, \$59,843.00, to Richard YYY through this office immediately.

This letter constitutes notice that unless we receive a certified check, cashier's check, or money order for such full amount, \$59,843.00 on or before July 3, 2004, this firm has been instructed to take whatever steps are necessary to protect our client's interests.

In such event, Mr. YYY has authorized and instructed us to file and prosecute a lawsuit against you to collect all damages caused by the above-described wrongful representations, acts, and omissions.

In connection with such litigation, we have been directed to pursue all proper legal remedies and to seek all available relief including, but not limited to, direct and consequential damages, penalties as provided by the Texas Consumer Protection – Deceptive Trade Practices Act, attorney fees, interest, court costs, and such additional punitive damages as may be legally appropriate.

Pursuant to Section 17.505, TEXAS BUSINESS & COMMERCE CODE, please be advised that if this claim has not been resolved within sixty (60) days from the date you receive this notice, the petition in the above-referenced lawsuit against you will be amended to request additional relief under the provisions of Section 17.50, TEXAS BUSINESS & COMMERCE CODE, including treble damages as authorized therein.

Please pay this claim now to avoid litigation and further expense. Your immediate response to this serious matter will be appreciated.

Sincerely,

Chris McHam

cc: Richard YYY
Better Business Bureau
John Billard
ZZZ
XXX Mortgage Association, Inc.