

1 Plaintiff, Richard Ramos (the "Plaintiff"), on behalf of himself and all others similarly
2 situated, by his undersigned attorneys, as his Amended Complaint against Defendant Renovate
3 America, Inc. ("Renovate America") for: (1) violation of California Business and Professions
4 Code § 17200, *et seq.*; and (2) tortious interference with contract, hereby alleges as follows:

5 **INTRODUCTORY STATEMENT**

6 1. Plaintiff brings this action individually and on behalf of a class comprised of all
7 persons who signed a contract with San Bernardino Associated Governments ("SANBAG") for a
8 HERO Loan on their principal dwelling and a subclass of all members of the Class for whom the
9 disclosed administrative fee in the HERO Loan documents was equal to or exceeded 5.7% (the
10 "Subclass") (collectively, the "Class"), against Renovate America seeking to redress Defendant's
11 pervasive pattern of false, deceptive, and otherwise unlawful practices regarding its origination
12 and administration of purportedly "energy efficient" home improvement loans under its Home
13 Energy Renovation Opportunity ("HERO") program, commonly called "HERO Loans."

14 2. The HERO Loan program is comprised of an extremely complex series of
15 transactions between, among others: (a) Defendant Renovate America; (b) SANBAG; (c) the San
16 Bernardino County Tax Collector; (d) investors in securitized notes (the proceeds of which are
17 used to fund the HERO Loans); and (e) ultimately the HERO Loan borrowers (Plaintiff and the
18 Class herein). The HERO Loan program was designed to give low and middle income
19 homeowners the ability to make energy efficient home improvements through the HERO Loan
20 program.

21 3. As more fully alleged herein, Defendant Renovate America created, designed, and
22 implemented the HERO Loan program to lend money under California's Property Assessed Clean
23 Energy or "PACE" financing program, to obtain priority over any existing mortgage(s) on a
24 borrower's property, to shift the burden of collecting payments on HERO Loans to the county
25 taxing authority, and to shift the risk of default to purchasers of notes that are backed by
26 securitized bonds used to finance the HERO Loans.

27 4. While payments made on HERO Loans are collected from borrowers by local
28 taxing authorities along with their semi-annual property tax payments, the HERO Loans are "tax

1 for coordination pursuant to California Code of Civil Procedure § 404.

2 **PARTIES**

3 9. Plaintiff, Richard Ramos, is an individual residing at 27381 Fisher St., Highland,
4 California 92346 (the "Property"). Plaintiff owns the Property as his primary residence.

5 10. Defendant Renovate America is a Delaware corporation with a principal place of
6 business located at 15073 Avenue of Science, San Diego, California 92128.

7 11. Non-party SANBAG is a joint exercise of powers authority, the members of which
8 include numerous cities in San Bernardino County and San Bernardino County itself. SANBAG
9 is responsible for cooperative regional planning and furthering an efficient multi-modal
10 transportation system countywide. SANBAG supports freeway construction projects, regional and
11 local road improvements, train and bus transportation, railroad crossings, call boxes, ridesharing,
12 congestion management efforts and long-term planning studies.

13 **FACTUAL ALLEGATIONS**

14 **California's PACE Program**

15 12. Chapter 29 of Part 3 of Division 7 of the Streets and Highways Code of the State of
16 California ("Chapter 29") authorizes a legislative body, such as SANBAG, to designate an area
17 within which authorized public officials and property owners may enter into voluntary contractual
18 assessments to finance the installation of renewable, energy efficient improvements or water
19 conservation improvements that are permanently fixed to real property.

20 13. The financing for Chapter 29 home improvements is commonly known as Property
21 Assessed Clean Energy or "PACE" financing, and the home improvement loan is commonly
22 known as a "PACE Loan."

23 14. Unlike a typical home improvement loan, a PACE Loan is created by a homeowner
24 signing a voluntary assessment contract with a public entity that allows the public entity to collect
25 payments on the PACE Loan through the county tax collector.

26 15. The essential features of a PACE Loan are that: (1) the debt for the property
27 improvements attaches to the homeowner's property and is secured by a voluntary contractual
28 assessment recorded as a lien against the property; (2) the lien created by the PACE Loan has

1 priority over other debts on the property, including a homeowner's first mortgage; and (3) the
2 repayment of the PACE Loan is collected by the county tax collector.

3 16. The PACE Loan program has had a controversial history with mortgage industry
4 participants, such as the Federal National Mortgage Association ("Fannie Mae") and Federal
5 Home Loan Mortgage Corporation ("Freddie Mac"), that are concerned about local governments
6 lending money to homeowners who cannot obtain conventional financing for ordinary home
7 equity loans, especially when those loans are disguised as "tax assessments" with priority over
8 existing secured mortgage(s).

9 17. On July 6, 2010, the Federal Housing Finance Agency ("FHFA"), the independent
10 regulatory agency responsible for oversight of secondary mortgage markets including Fannie Mae
11 and Freddie Mac, issued a statement concerning PACE Loans which directed Fannie Mae, Freddie
12 Mac, and the twelve Federal Home Loan Banks (the "FHL Banks") to take certain actions to limit
13 their exposure to financial risks associated with first-lien PACE Loans.

14 18. In a directive issued on February 28, 2011, FHFA expressly directed Fannie Mae,
15 Freddie Mac, and the FHL Banks not to purchase mortgages affected by voluntary contractual
16 assessments such as PACE Loans.

17 19. On June 15, 2012, FHFA published Enterprise Underwriting Standards; Proposed
18 Rule in the Federal Register. In that publication, FHFA noted that:

19 Proponents of first-lien PACE programs have analogized the obligations to repay
20 *PACE loans* to traditional tax assessments. However, unlike traditional tax
21 assessments, *PACE loans* are voluntary and have other features not typical of tax
22 assessments – homeowners opt in, submit applications, and contract with the city
23 or county's PACE program to obtain the *loan* and repay it.

24 (Emphasis added).

25 20. On December 22, 2014, FHFA released the following Statement of the Federal
26 Housing Agency on Certain Super-Priority Liens:

27 Energy Retrofit Financing Programs Structured as Tax Assessments

28 While FHFA fully supports energy retrofit financing programs to allow
homeowners to improve energy efficiency, these programs must be structured to
ensure protection of the core financing for the home and, therefore, cannot
undermine the first-lien status of Fannie Mae and Freddie Mac mortgages. Some

1 entities and localities are advancing the argument that single-family energy retrofit
2 financing programs that are structured to make *loans* through the homeowner's
3 property tax assessment and require that borrowers repay their *loans* as part of their
4 property tax bill should have priority over all other *loans*, including pre-existing
5 Fannie Mae and Freddie Mac mortgages. One such program is known as the
6 Property Assessed Clean Energy (PACE) program, which often provides *loans* as
7 first-liens and is offered in California and in some other states. Localities offering
8 these *PACE loans* threaten to move existing Fannie Mae and Freddie Mac
9 mortgages to a second lien position and increase the risk of loss to the Enterprises
10 [Fannie Mae and Freddie Mac] and by extension, to taxpayers.

11 In issuing this statement, FHFA wants to make clear to homeowners, lenders, other
12 financial institutions, state officials, and the public that Fannie Mae and Freddie
13 Mac's policies prohibit the purchase of a mortgage where the property has a first-
14 lien *PACE loan* attached to it. This restriction has two potential implications for
15 borrowers. First, a homeowner with a first-lien *PACE loan* cannot refinance their
16 existing mortgage with a Fannie Mae or Freddie Mac mortgage. Second, anyone
17 wanting to buy a home that already has a first-lien *PACE loan* cannot use a Fannie
18 Mae or Freddie Mac loan for the purchase. These restrictions may reduce the
19 marketability of the house or require the homeowner to pay off the *PACE loan*
20 before selling the house.

21 FHFA believes it is important for states and municipalities to understand these
22 restrictions before continuing to offer the programs. Additionally, FHFA believes
23 that borrowers should fully understand these restrictions prior to taking out a first-
24 lien *PACE loan*.

25 (Emphasis added).

26 21. Despite FHFA's statements regarding PACE Loans, Renovate America's website
27 contained the following statement to potential consumers interested in a PACE Loan: "[I]f the
28 property is sold, any remaining balance may be legally passed on to the new owner." However,
Fannie Mae, Freddie Mac, the Federal Housing Administration ("FHA"), and the Veterans
Administration ("VA") will not purchase mortgages on any property encumbered with an existing
PACE Loan.

29 *Intended Purpose of PACE Loans and DOE Guidelines*

30 22. In May 2010, the United States Department of Energy ("DOE") issued Guidelines
31 for Pilot PACE Financing Programs (the "Guidelines"), in which the DOE announced best
32 practice guidelines to help implement the PACE programs. The Guidelines were updated in 2016.

33 23. According to the Guidelines, the cost of PACE program home improvements are

1 expected to pay for themselves over the life of a PACE Loan. In other words, the PACE program
2 must be designed so that a homeowner's energy savings should be more than the total amount of
3 the payments due on the PACE Loan over the life of the loan. The Guidelines provide that PACE
4 lenders only approve PACE Loans for homeowners who are expected to achieve those net savings.

5 24. The Guidelines also direct that first mortgage holders receive a notice when liens to
6 secure PACE Loans are placed on property secured by a first mortgage. Since most homeowners
7 who obtain a PACE Loan to finance home improvements escrow their taxes with their first
8 mortgage lenders, if a mortgage holder is unaware of a PACE lien, the homeowner's escrow
9 balance will be insufficient when a PACE Loan payment is due, requiring the homeowner to pay
10 the full amount of the PACE Loan payment to the mortgage holder to make up for the shortfall in
11 his or her escrow account.

12 25. Finally, the Guidelines direct PACE lenders to consider a homeowner's ability to
13 repay a PACE Loan and not merely rely upon the homeowner's equity in his or her property when
14 approving a PACE loan.

15 26. As alleged more fully below, Renovate America has failed to adhere to the DOE's
16 Guidelines.

17 **Renovate America's HERO Loan Program**

18 27. Defendant Renovate America was formed in 2008 to work with local governments
19 to implement residential PACE programs.

20 28. Renovate America's PACE program is known as the Home Energy Renovation
21 Opportunity program, commonly known as the "HERO Loan Program." Home improvement loans
22 under the HERO Loan Program are commonly known as "HERO Loans."

23 29. When Defendant Renovate America creates and implements a HERO Loan
24 Program with a local government partner, it is hired to market, originate and administer HERO
25 Loans. According to its website, Renovate America offers HERO Loans in at least 48 counties in
26 the State of California, including San Bernardino County.

27 30. Property owners seeking to participate in the HERO Loan Program are identified,
28 selected, and pre-approved by Renovate America and then enter into a home improvement

1 contract with a contractor and have the improvements completed before the financing is put in
2 place and before any lien is recorded against the property.

3 31. To participate in the HERO Loan Program, a property owner must meet the
4 following three qualifications:

- 5 a. mortgage related debt on the property must not exceed 90% of the value of
6 the property;
- 7 b. the property owner must be current on his or her property taxes and there
8 must be no more than one late payment in the past three years; and
- 9 c. the property owner must be current on all property debt at the time of the
10 application and cannot have had more than one 30-day mortgage late
11 payment over the previous 12 months.

12 32. In addition, to qualify for the HERO Loan Program, the proposed project must
13 meet the following two requirements:

- 14 a. the amount to be financed under the program may not exceed 15% of the
15 value of the property; and
- 16 b. the combined amount to be financed under the program plus the mortgage-
17 related debt must not exceed 100% of the value of the property.

18 33. Renovate America determines the value of a property using an automated valuation
19 model ("AVM"), provided by a purportedly independent third-party vendor. If an AVM value is
20 not available for a particular property, Defendant Renovate America uses the assessed value of the
21 property instead.

22 34. Renovate America does not perform the home improvements it finances. Instead,
23 Renovate America uses thousands of local contractors participating in the Hero Loan Program to
24 perform the home improvements.

25 35. Renovate America enters into a Registered Contractor Participation Agreement
26 with each and every contractor that participates in the Hero Loan Program. That agreement
27 requires participating contractors to "[c]omply with all local, state and federal marketing and
28 telemarketing laws, regulations and rules, including but not limited to the Telephone Consumer

1 Protection Act and the Truth in Lending Act.”

2 36. Renovate America provides participating contractors with marketing materials as
3 well as information about the value of a potential customer’s home.

4 37. Therefore, a door-to-door salesman (*i.e.* contractor) trying to induce a homeowner
5 to enter into a HERO Loan will know before even approaching a homeowner approximately how
6 much the homeowner can borrow through the HERO Loan Program.

7 38. With this information in hand, a door-to-door salesman (*i.e.* contractor) seeking to
8 induce a homeowner into entering into a HERO Loan typically gives a homeowner an inflated
9 quote on the home improvement work that purportedly will reduce his or her energy costs so that
10 the amount quoted comes fairly close to the maximum amount the salesman knows the
11 homeowner will be able to borrow under the HERO Loan Program.

12 39. Renovate America’s marketing materials include “Contractor Talking Points,”
13 which advise contractors that they may inform prospective HERO Loan borrowers that they will
14 “be able to transfer any remaining balance” on a HERO Loan to the new owners if they sell their
15 homes. However, as alleged above, Fannie Mae, Freddie Mac, FHA, and the VA will not
16 purchase mortgages on any property encumbered with an existing PACE Loan.

17 **Renovate America and SANBAG’s Involvement in the PACE Program**

18 40. On or about October 2, 2013, SANBAG agreed with Defendant Renovate America
19 that Renovate America would implement the HERO Loan Program in San Bernardino County.

20 41. Defendant Renovate America agreed with SANBAG that SANBAG would raise
21 funds for the HERO Loan Program exclusively through the sale of improvement bonds.

22 42. Renovate America also agreed to work with SANBAG and its member jurisdictions
23 to promote the HERO Loan Program.

24 43. Renovate America further agreed to develop a standard set of documents suitable to
25 the parties for use in the HERO Loan Program.

26 44. In addition, Renovate America further agreed to ensure that the HERO assessments
27 are placed on the appropriate property owner’s property tax bill.

28 45. Shortly after SANBAG retained Defendant Renovate America to implement and

1 operate the HERO Loan Program as alleged herein, SANBAG issued a press release announcing
2 the HERO Loan Program. The press release stated:

3 The HERO Program is different from traditional consumer financing because
4 *approvals are based primarily on the amount of equity a homeowner has in their*
5 *home. And because the HERO Program does not base their decisions on*
6 *household income or FICO scores, a higher percentage of applications are*
7 *approved.*

8 Press Release, SANBAG, HERO Financing Program is Now Available to San Bernardino
9 Property Owners (Oct. 22, 2013) (emphasis added).

10 46. Defendant Renovate America agreed with SANBAG that SANBAG would raise
11 funds for the HERO Loan Program exclusively through the sale of improvement bonds to
12 Renovate America.

13 47. Defendant Renovate America agreed to provide services for the HERO Loan
14 Program, including, but not limited to: reviewing and editing all policies for the HERO Loan
15 Program; providing documentation required for registering HERO contractors; accepting,
16 processing and approving borrowers' HERO Loan applications; approving proposed HERO
17 improvements; providing HERO financing disclosures; accepting, processing and approving
18 HERO funding requests; issuing and executing contractual assessment agreements; recording lien
19 documents; issuing payments to contractors; creating all forms needed for the HERO Loan
20 Program; designing and building the HERO Loan Program website; pulling all credit, title,
21 valuation and other reports; reviewing the eligibility of borrowers' properties; providing
22 notifications of approval, denial or incomplete status of borrowers' HERO applications; and
23 preparing HERO Loan payoff letters.

24 48. As alleged above, SANBAG has no funds to finance the HERO Loans to property
25 owners. Thus, to fund the HERO Loans, SANBAG issues improvement bonds under the
26 Improvement Bond Act of 1915 (California Streets and Highways Code §§ 8500, *et seq.*) (the
27 "PACE Bonds"). Pursuant to a Bond Purchase Agreement between SANBAG and Defendant
28 Renovate America, Renovate America is required to buy all the PACE Bonds issued by SANBAG
for a purchase price equal to the outstanding principal amount of the bond plus accrued interest.

1 49. The PACE Bonds are secured by the liens created as a result of the HERO Loans
2 on real property owned by the HERO Loan participants.

3 50. Renovate America's PACE Bond portfolio is pooled and asset-backed notes are
4 issued and sold to investors to finance the purchase of SANBAG's bonds by Renovate America.

5 51. Defendant Renovate America's principal source of revenue is derived from HERO
6 Loan origination fees as well as the interest rate differential between the interest it receives on the
7 PACE Bonds and the interest it pays on the asset-backed notes sold to investors.

8 52. To date, Renovate America has originated over 100,000 HERO Loans, representing
9 more than \$2 billion in funding for residential property owners in California.

10 53. The PACE Bonds are practically risk-free because the bonds are secured by the
11 unpaid contractual assessments and have first-lien status over each borrower's pre-existing
12 mortgage(s).

13 54. At all times relevant hereto, Defendant Renovate America has charged each HERO
14 Loan borrower an administrative fee of between five and more than seven percent of the stated
15 amount of his or her HERO Loan, a portion of which is then retained by Renovate America.

16 55. On or about November 19, 2013, Renovate America filed PTO Form 1553 –
17 Trademark/Service Mark Allegation of Use with the United States Patent and Trademark Office.
18 On that form, Renovate America stated that the HERO trademark was being used in connection
19 with the “financial administration of *loans* for home improvements under property assessed clean
20 energy (PACE) programs; financial consulting in the field of *financing and loan services* for
21 property assessed clean energy (PACE) programs.” (Emphasis added).

22 **Facts Related to Plaintiff's HERO Loan Transaction with Renovate America**

23 56. On May 1, 2014, a door-to-door salesman from Powerstar Home Energy Solutions
24 (“Powerstar”) made an unsolicited visit to Plaintiff's Property and told Plaintiff that he needed a
25 new roof and that the new roof would reduce Plaintiff's electricity costs.

26 57. The door-to-door salesman from Powerstar told Plaintiff that he could obtain
27 financing for the work through Renovate America's HERO Loan Program.

28 58. The door-to-door salesman told Plaintiff that the cost of the new roof would be

1 \$20,977.10.

2 59. Plaintiff applied for a HERO Loan on the same day that the Powerstar salesman
3 visited Plaintiff's home.

4 60. On May 9, 2014, Plaintiff was notified by Renovate America that he was approved
5 for a HERO Loan. Included with the approval letter was a HERO Loan application, a financing
6 summary, an assessment contract, and a right to cancel notice.

7 61. The form of the approval letter, the HERO Loan application, the financing
8 summary, the assessment contract, and the right to cancel notice sent to all HERO borrowers were
9 prepared by Defendant Renovate America and approved by SANBAG.

10 62. According to the HERO financing summary dated May 9, 2014, the requested
11 project amount for Plaintiff was \$20,977.10, the same amount quoted by the Powerstar door-to-
12 door salesman.

13 63. The HERO financing summary also stated the following:

14 Your payments will be added to your property tax bill for 20 years. If your project
15 funds on or before June 30th of 2014, your first payment will be included on your
16 November 2014 tax bill. If your project funds after June 30th of 2014, your first
17 payment will be included on your November 2015 tax bill. ***The following terms
18 are estimates and are subject to change upon completion of work.*** This summary
19 does not include tax deduction or energy savings.

20 (Emphasis added).

Financing Term	Interest Rate	Annual Amount Added to Property Tax Bill
20 years	9.25%	\$2,859.28

22 64. Plaintiff executed the HERO financing summary on June 3, 2014.

23 65. The HERO Loan approval letter sent to Plaintiff also included a HERO Program
24 assessment contract dated May 9, 2014 (the "Assessment Contract").

25 66. Section 4 of the Assessment Contract stated that the assessment plus interest, the
26 additional administrative assessment, and any penalties incurred as a result of any delinquency in
27 the payment of any installment of the assessment "shall constitute a lien" on Plaintiff's Property.
28

1 67. According to Section 9 of the Assessment Contract, Plaintiff purportedly waived
2 the right to sue Defendants for any claims arising out of the Assessment Contract.

3 68. Attached as Exhibit B to the Assessment Contract is a "List of Contract
4 Documents, Disbursement, and Schedule of Annual Assessment Installments, Including Principal,
5 Interest and Annual Assessment Administrative Fee."

6 69. According to Exhibit B to the Assessment Contract, the maximum disbursement
7 amount was \$25,328.73 and the estimated disbursement date was to be no later than August 27,
8 2014.

9 70. Exhibit B to Plaintiff's Assessment Contract also stated as follows: "Interest
10 totaling a maximum of \$2,739.90 will accumulate until your first Payment. That amount will be
11 added to Owner's Maximum Disbursement Amount."

12 71. Exhibit B to Plaintiff's Assessment Contract stated that the "Assessment Interest
13 Rate is 9.25%."

14 72. Exhibit B to Plaintiff's Assessment Contract stated that:

15 The Annual Percentage Rate (APR) of your assessment is 10.59%. APR is the
16 Effective Cost of Credit in *consumer loans* and *real estate loans* expressed as a
17 percentage interest rate. The annual percentage rate is the interest rate the borrower
18 actually pays, including fees required in order to participate in the program.

18 (Emphasis added).

19 73. Exhibit B to Plaintiff's Assessment Contract estimated that "[t]he total
20 administrative fees, recording fees and annual assessment added to your assessment is \$1,611.73."

21 74. Exhibit B of Plaintiff's Assessment Contract contains the following paragraph:

22 **Prepayment**

23 You have the right to pay off your assessment lien amount in full, or in part in
24 increments of \$5,000 at any time pursuant to Section 11 of the Assessment
25 Contract. However, if you do so, you will have to pay (i) the principal amount of
26 the assessment to be prepaid (the "Assessment Prepayment Amount"), (ii) *a*
27 *prepayment premium if you prepay within the first five years from the Effective*
28 *Date (if you prepay after the first five years, there is no prepayment premium)*,
see table below, (iii) interest on the Assessment Prepayment Amount to the earlier
of March 2 or September 2 occurring at least 90 days following the date the
prepayment is made, and (vi) a processing fee (not to exceed \$500).

1 (Emphasis added).

2 75. The prepayment premium contained in Exhibit B of the Assessment Contract states
3 that the prepayment premium “shall be a percentage of the principal amount of the Assessment”
4 with the premium being 5% in the first year, 4% in the second year and 3% in the third, fourth and
5 fifth years. In addition to the prepayment premium discussed above, Exhibit B to Plaintiff’s
6 Assessment Contract required Plaintiff to pay interest on the Assessment Prepayment Amount “to
7 the earlier of March 2 or September 2 occurring at least 90 days following the date the prepayment
8 is made.”

9 76. Plaintiff executed the Assessment Contract on June 3, 2014, and returned it to
10 Renovate America shortly thereafter. SANBAG countersigned the Assessment contract on June 6,
11 2014.

12 77. Shortly after Plaintiff returned the executed documents described above, Renovate
13 America provided Plaintiff with a “HERO Notice to Proceed,” dated June 11, 2014 (“Notice to
14 Proceed”), advising Plaintiff that SANBAG had countersigned the financing documents Plaintiff
15 returned to Renovate America. The Notice to Proceed instructed Plaintiff to sign a completion
16 certificate once his roofing project had been completed.

17 78. Attached to the Notice to Proceed was a “HERO Financing Program Completion
18 Certificate” dated June 11, 2014 (the “Completion Certificate”).

19 79. Page 1 of the Completion Certificate stated that the \$20,977.10 cost for Plaintiff’s
20 new roof will be paid directly to Powerstar.

21 80. Plaintiff executed the Completion Certificate on June 16, 2014, and a representative
22 of Powerstar executed the Completion Certificate on June 18, 2014. The fully executed
23 Completion Certificate was returned to Defendants shortly thereafter.

24 81. On information and belief, Renovate America paid the sum of \$20,977.10 directly
25 to Powerstar after receiving the fully executed Completion Certificate.

26 82. On June 27, 2014, Renovate America recorded a Notice of Assessment dated June
27 24, 2014 with the San Bernardino County Record’s Office (the “Recorded Notice of
28 Assessment”).

1 83. The Recorded Notice of Assessment for Plaintiff's HERO Loan was in the
2 principal amount of \$22,798.12. Renovate America never provided any information as to how the
3 principal amount of Plaintiff's HERO Loan was calculated.

4 84. Page 2 of the Recorded Notice of Assessment also states that "[t]he Prepayment
5 Premium set forth on Exhibit B of the Assessment Contract is hereby amended to read as follows:

<u>Redemption Dates</u>	<u>Redemption Premium (%)</u>
March 2, 2015 and September 2, 2015	5 %
March 2, 2015 and September 2, 2016	4
March 2, 2017 through September 2, 2019	3
March 2, 2020 through maturity	0

10 85. Furthermore, Page 2 of the Recorded Notice of Assessment states that:

11
12 NOTICE IS FURTHER GIVEN that upon the recording of this notice in the
13 office of the County Recorder, the Assessment shall become a lien upon the
14 Property. In addition, the Annual Administrative Assessment shall become a lien
15 upon the Property at the same time as property taxes upon the Property become a
16 lien each year.

16 **Payments Pursuant to Plaintiff's HERO Loan**

17 86. In California, property taxes are collected by the various counties although they are
18 governed by California State law. In order to determine the amount of a homeowner's property
19 taxes, the county assessor must first assess the value of the property. Generally, the assessed value
20 is the market value at the time of purchase. Pursuant to Proposition 13, a law approved by
21 California voters in 1978, the value of a property cannot increase by more than 2% per year unless
22 the property is sold or any new construction is completed, at which time the property must be
23 reassessed.

24 87. After the assessor has determined the property's value, the auditor-controller
25 applies the appropriate tax rates, which include the general tax levy, locally voted special taxes,
26 and any city or district assessments. The general tax levy is determined in accordance with State
27 law and is limited to \$1 per \$100 of the assessed value of the property pursuant to Proposition 13.
28 Special taxes and district assessments are passed by vote. The county tax collector prepares

1 property tax bills based on the Auditor-Controller's tax calculations, distributes the tax bills and
2 collects the taxes.

3 88. Property taxes are payable in two installments for a fiscal year that begins on July 1
4 and ends on June 30. The first installment is due on November 1 (and must be paid on or before
5 December 10 without incurring a 10% penalty); the second installment is due on February 1 (and
6 must be paid on or before April 10 without incurring a 10% penalty). Thus, for example, in the
7 2015-2016 Fiscal Tax Year, the first installment was due on November 1, 2015 and the second
8 installment was due on February 1, 2016.

9 89. Even though the amortization schedule in the "Assessment" Contract that Plaintiff
10 executed on June 6, 2014, stated that the first payment on his HERO Loan was not due until the
11 2015-2016 Tax Year (meaning the first payment would be due on November 1, 2015), the
12 Payment of Contractual Assessment Required dated June 24, 2014, required Plaintiff to make his
13 first payment on November 1, 2014, a year before the date stated in his original "Assessment"
14 Contract.

15 90. Plaintiff's first mortgage lender, Wells Fargo, made the first half of the annual
16 HERO Loan payment on November 26, 2014, through the escrow account Wells Fargo maintained
17 on his behalf.

18 91. However, because Renovate America did not notify Wells Fargo about the
19 existence of Plaintiff's HERO Loan, there was a shortage in Plaintiff's escrow account with Wells
20 Fargo which Wells Fargo demanded that Plaintiff pay.

21 92. Plaintiff's first mortgage lender, Wells Fargo, made the second half of the annual
22 HERO Loan payment on March 25, 2015, through the escrow account Wells Fargo maintained on
23 his behalf.

24 **Plaintiff Paid Paid Off His HERO Loan**

25 93. In 2015, Plaintiff decided to refinance his mortgage with Wells Fargo. However, in
26 order to refinance his mortgage, Wells Fargo insisted that a portion of the loan proceeds from the
27 refinance transaction be used to pay off Plaintiff's HERO Loan.

28 94. Thereafter, Renovate America provided Plaintiff with a "HERO Program Payoff

1 Statement” dated November 3, 2015 (the “HERO Payoff”). Upon information and belief, the
2 HERO Payoff was prepared by Renovate America.

3 95. According to the HERO Payoff, the total payoff amount needed to satisfy
4 Plaintiff’s HERO Loan was \$23,399.21 broken down as follows:

Description of Payment	
Project Cost (labor and products) 7/1/2014	\$20,977.10
HERO Administrative program cost	\$1,333.69
County recording and processing fee	\$130
Interest from 7/1/2014 to 3/2/2016	\$3,500.52
Assessment payments via property tax bill from 7/1/2014 to 6/30/2015	\$(2,542.10)
TOTAL PAYOFF AMOUNT DUE:	\$23,399.21

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12 96. According to the HERO Payoff, SANBAG issued Bond Series 140701-SB-PB-R-
13 20A to finance the cost of his improvements.

14 97. According to the California Debt and Investment Advisory Commission, Bond
15 Series 140701-SB-PB-R-20A in the amount of \$1,525,807 was sold on July 1, 2014.

16 98. Plaintiff paid \$23,399.21 to satisfy his HERO Loan on or about November 18,
17 2015.

18 99. As part of paying off Plaintiff’s HERO Loan, Renovate America required Plaintiff
19 to pay interest from November 18, 2015 to March 2, 2016 in the approximate amount of \$604
20 even though Plaintiff had paid the principal amount of his HERO Loan on November 18, 2015.

21 100. In total, Plaintiff paid \$25,941.31 for the “benefit” of participating in the HERO
22 Loan Program, \$4,964.21 or 23% more than his project cost, and their energy savings as a result of
23 the improvements have been virtually nonexistent.

24 **Secret Double-Counting of Accrued Interest**

25 101. In the HERO Loan application, Renovate America tells each HERO Loan borrower
26 that interest will be computed *from the closing date of the loan* until the date of the borrower’s
27 first loan payment, and that accrued interest for that period of time computed in that manner will
28 be added to the stated amount of the HERO Loan. In the HERO Loan application, Renovate

1 America does not tell HERO Loan borrowers that they will be charged interest *twice* for that
2 specified period of time.

3 102. Thus, in his HERO Loan application, Plaintiff was told by Renovate America that
4 interest would be computed from the closing date of his HERO Loan until his first loan payment,
5 but was not told that he would be charged interest *twice* for that period of time.

6 103. In the Assessment Contract, however, Renovate America identifies a *different*
7 period of time for computing accrued interest. In the Assessment Contract, Renovate America
8 tells each HERO Loan borrower that interest will be computed starting *from the date on which*
9 *SANBAG issues bonds to finance the work*. In his Assessment Contract, Renovate America did
10 not tell Plaintiff that he will be charged interest *twice* for that other specified period of time.

11 104. Beginning in or about October 2015, however, in the financing summary, Renovate
12 America has identified a *third* period of time for computing accrued interest. Since in or about
13 October 2015, in the financing summary Renovate America has told each HERO Loan borrower
14 that interest will be computed *from the date on which the work is completed* until the date of the
15 borrower's first loan payment, and that accrued interest computed in that third manner would be
16 added to the stated amount of the HERO Loan. In the financing summary, Renovate America
17 does not tell HERO Loan borrowers they will be charged interest *twice* for that third specified
18 period of time.

19 105. Upon information and belief, prior to 2015, Renovate America did not state in the
20 financing summary how accrued interest would be calculated. In the financing summary given to
21 Plaintiff, Renovate America did not state how or when accrued interest would be calculated before
22 his first HERO Loan payment was due and Plaintiff was not told that he would be charged *twice*
23 for any accrued interest.

24 106. Renovate America never told HERO Loan borrowers, and HERO Loan borrowers
25 did not agree, that interest would be charged for a *second time* on the accrued interest added to the
26 stated amount of the HERO Loan.

27 107. In fact, Defendant Renovate America secretly charges interest *twice* on the amount
28 of accrued interest added to the stated amount of all the HERO Loans from whenever the accrued

1 interest is calculated until the date of the borrower's first loan payment. Renovate America
2 inflated the stated amount of each HERO Loan by the amount of accrued interest, and then re-
3 computed interest on that inflated amount from the first day of the accrual period (whether the
4 closing date of the loan, the bond issuance date, or the completion date), as though the interest had
5 not been paid and capitalized.

6 108. The double-counted interest, which is *not* disclosed to HERO Loan borrowers
7 (Plaintiff and the Class members herein) or agreed to by them, is amortized over the entire life of
8 the loans and included (without any credit or setoff) in any payoff amounts given to them.

9 109. By capitalizing accrued interest *and* compounding interest on the higher principal
10 amount from the first day of the accrual period as though interest had not been accrued and
11 capitalized, Defendant Renovate America secretly double-counted interest on the HERO Loans.

12 **Secret Double-Counting of Administration Fees**

13 110. During the relevant time period, in the HERO Loan applications, Renovate
14 America stated that it would charge each HERO Loan borrower a "one-time administration fee"
15 based upon the "principal amount" of his or her HERO Loan, a portion of which is then retained
16 by Renovate America. During the relevant time period, the amount of the administration fee
17 ranged from a low of 4.99% to a high of 6.95%.

18 111. In the HERO Loan application given to Plaintiff, Renovate America stated that
19 Plaintiff would be charged a one-time administration fee of 5.85% of the "principal amount" of his
20 assessment and that the one-time administration fee would be added to the assessment amount.

21 112. Renovate America does not define the term "principal amount" in any of the HERO
22 Loan Program documents. In the documents, Renovate America variously uses the terms
23 "principal amount," "assessment," "assessment amount," and "assessment lien amount" without
24 defining any of those terms, leaving the meaning of the terms misleading, unclear and confusing to
25 Plaintiff and Class members.

26 113. In fact, the actual administration fee charged and collected by Renovate America is
27 not between 4.99% and 6.95% percent, but in fact is between 5.25% and 7.5%. These higher
28 numbers are because Renovate America charges and collects an administration fee *on the*

1 **administration fee** as well as on the principal amount of the HERO Loan, thus secretly double-
2 counting the administration fees it receives in the same way it secretly double-counts interest.

3 114. The formula used by Renovate America to calculate the administration fee is not
4 simply the “principal amount” of the HERO Loan multiplied by the stated percentage of the
5 administration fee, as the HERO Loan documents state. Rather, the actual formula Renovate
6 America uses to calculate the administration fee is the sum of the project cost, plus accrued
7 interest, the annual assessment administration fee, and the recording fee, multiplied by the
8 reciprocal of one minus the stated percentage of the administration fee minus one. That formula,
9 which yields a percentage administration fee significantly **higher** than the percentage stated in
10 each HERO Loan borrower’s loan application, is never disclosed to the HERO Loan borrowers
11 (Plaintiff and the Class members).

12 115. For Plaintiff, the actual formula Renovate America used to calculate the
13 administration fee is as follows:

$$14 \quad \$21,464.43 \times (1/(1 - 0.0585) - 1) = \$1,333.69$$

15 116. Therefore, the actual administration fee charged to Plaintiff was 6.2135%, which is
16 significantly higher than the 5.85% administration fee disclosed in Plaintiff’s HERO Loan
17 application.

18 **Failure to Credit Payments When Made**

19 117. Unbeknownst to Plaintiff and the other Class members, Renovate America does not
20 apply the semi-annual HERO Loan payments to outstanding principal and accrued interest when
21 they are made. Rather, Renovate America applies payments to outstanding principal and accrued
22 interest only once every year, on September 2 of each year, the date principal payments on the
23 PACE Bonds are due.

24 118. Despite the fact that Plaintiff made **two** timely semi-annual HERO Loan payments
25 on November 26, 2014 and March 25, 2015, Renovate America did not apply **either** of the two
26 payments to accrued interest and outstanding principal until September 2, 2015, thereby secretly
27 increasing the total amount of interest that Renovate America collected from Plaintiff.

28 119. Plaintiff and the other Class members reasonably expected that their HERO Loan

1 payments would be applied and credited against accrued interest and outstanding principal when
2 those HERO Loan payments were made, not months after the payments were made.

3 120. Renovate America likewise secretly increased the total amount of interest it charges
4 and collects from all other Class members.

5 **Improper Amortization of HERO Loans**

6 121. To amortize a HERO Loan, Defendant Renovate America calculated the amount of
7 each semi-annual HERO Loan payment by calculating a single annual payment, and then dividing
8 that annual payment by two. That amortization method was improper and resulted in two semi-
9 annual payments that were higher than they would have been had Renovate America properly
10 amortized the HERO Loans.

11 122. To amortize the HERO Loans properly, Renovate America was required to take
12 into account two semi-annual payments, not a single annual payment. This is because the first
13 semi-annual payment, made before the end of the year in which the two payments were made,
14 reduced the outstanding principal amount of the HERO Loan on which interest accrued during the
15 interim period before the second semi-annual payment was made.

16 123. By amortizing the HERO Loans as though only a single annual payment was made
17 at the end of the year, Renovate America inflated the amount paid by Plaintiff and the other HERO
18 Loan borrowers each year. That Renovate America divided the inflated amount in two equal
19 payments did not change the over-calculation of the total amount of the payments each year.

20 124. By amortizing the HERO Loans in this improper manner, Renovate America
21 increased the amount of interest it collected and will collect from Plaintiff and the other HERO
22 Loan borrowers.

23 **Defendant Renovate America Overcharged the "Pass-Through" Recording Fee**

24 125. In the Plaintiff's HERO Loan application, Renovate America stated that: "[a]t the
25 time of closing, SANBAG will *pass-through* the assessment recording fee of *approximately* \$95
26 to you to cover the costs of recording the assessment. This fee will be added to the assessment
27 amount."

28 126. Renovate America paid only \$78 to record Plaintiff's Payment of Contractual

1 Assessment Required and Notice of Assessment, but charged Plaintiff \$95 as the “pass-through”
2 recording fee.

3 127. Upon information and belief, prior to the time that Renovate America provided
4 Plaintiff with a HERO Financing Program Final Payment Summary, Renovate America knew that
5 the actual recording fees to record Plaintiff’s HERO Loan documents with the San Bernardino
6 County recorder would be \$78, or \$17 less than the \$95 “estimated” recording fee disclosed in
7 Plaintiff’s HERO Loan Application. However, Renovate America included the \$95 “estimated”
8 recording fee instead of the \$78 actual recording fee in Plaintiff’s HERO Loan.

9 128. Defendant Renovate America mislead Plaintiff and the HERO Loan borrowers to
10 believe that they would only be charged for the actual or “pass-through” cost of the recording fees
11 when, in fact, Renovate America charged Plaintiff and the HERO Loan borrowers the “estimated”
12 recording fee regardless of the actual amount of the recording fee, which “estimated” amount was
13 higher than the actual amount.

14 129. In addition, Renovate America computed accrued interest on the project cost plus
15 the inflated “estimated” recording fee (not the actual “pass-through” recording fee), and charged
16 the administration fee on the project cost, plus the over-stated accrued interest and the inflated
17 recording fee. Renovate America then amortized interest on that entire overstated amount for the
18 entire duration of each Class member’s HERO Loan.

19 130. As a result of the foregoing, Renovate America overcharged Plaintiff and each
20 Class member on accrued interest (which they secretly double-counted), on administration fees
21 (which they secretly double-counted), on recording fees (which they secretly inflated), and on
22 amortized interest for the duration of each borrower’s HERO Loan.

23 **Understatement of Estimated APR**

24 131. Throughout the relevant time period, Renovate America disclosed to Plaintiff and
25 each Class member the estimated annual percentage rate (“APR”) for each borrower’s HERO
26 Loan. On information and belief, prior to September 2016, Renovate America did not disclose the
27 final APR to HERO Loan borrowers.

28 132. On information and belief, during the relevant time period, Renovate America

1 improperly calculated the estimated APR for each HERO Loan by failing to subtract
2 administration fees, recording fees, and the annual assessment fee from the APR calculation and
3 by treating prepaid and capitalized interest as if it had not been prepaid.

4 133. The stated interest rate in Plaintiff's Assessment Contract was 9.25% and the
5 estimated APR for Plaintiff's HERO Loan disclosed in his Assessment Contract was 10.59%.
6 However, if calculated properly, the APR for Plaintiff's HERO Loan using the assumptions listed
7 on Exhibit B of Plaintiff's Assessment Contract exceeds 12%.

8 **CLASS ACTION ALLEGATIONS**

9 134. Plaintiff brings this action pursuant to Code of Civil Procedure § 382 as a class
10 action on behalf of himself and all others similarly situated for the purpose of asserting the claims
11 alleged in this Amended Complaint on a common basis.

12 135. The Class is comprised of all persons or entities who signed a contract with
13 SANBAG for a HERO Loan on their principal dwelling (the "Class"). Renovate America and its
14 directors, officers, employees, and affiliates are excluded from the Class.

15 136. The "Subclass" is comprised of all members of the Class for whom the disclosed
16 administrative fee in the HERO Loan documents was equal to or exceeded 5.7%.

17 137. Although Plaintiff does not presently know the exact size of the Class or the names
18 and addresses of all Class members, such information can be readily obtained from the books and
19 records of Renovate America. Upon information and belief, over 12,000 HERO Loans were made
20 to Class members who participated in SANBAG's HERO Loan Program during the relevant time
21 period. Thus, the proposed Class is so numerous that joinder of all members is impracticable.

22 138. The claims of all members of the Class involve common question of law and fact
23 including:

- 24 a. whether Renovate America violated § 17200 by engaging in unlawful, unfair
25 and/or deceptive activities with respect to the HERO Loans;
- 26 b. whether Renovate America tortiously interfered with Plaintiff and the Class
27 members' Assessment Contracts;
- 28 c. whether Plaintiff and the Class members are entitled to damages/equitable relief

1 by reason of Renovate America's wrongful conduct alleged herein and, if so,
2 what measure of such damages and/or equitable relief is proper;
3 d. whether Plaintiff and the Class members are entitled to injunctive relief by
4 reason of Renovate America's wrongful conduct.

5 139. In addition, Renovate America has acted or failed to act as alleged herein on
6 grounds that apply generally to the Class, so that final injunctive relief is appropriate respecting
7 the Class as a whole.

8 140. The common questions of law and fact predominate over any potential individual
9 issues.

10 141. Plaintiff's claims are typical of the claims of all other members of the Class.
11 Plaintiff's interests do not conflict with the interests of any other member of the Class, in that
12 Plaintiff and the other members of the Class were subjected to the same unlawful conduct.

13 142. Plaintiff is committed to the vigorous prosecution of this action and has retained
14 competent legal counsel experienced in class action and complex litigation.

15 143. Plaintiff is an adequate representative of the Class and, together with his attorneys,
16 is able to and will fairly and adequately protect the interests of the Class and its members.

17 144. A class action is superior to other available methods for the fair, just, and efficient
18 adjudication of the claims asserted herein. Joinder of all members of the Class is impracticable
19 and, for financial and other reasons, it would be impractical for individual members of the Class to
20 pursue separate claims.

21 145. Moreover, the prosecution of separate actions by individual members of the Class
22 would create the risk of varying and inconsistent adjudications, and would unduly burden the
23 courts.

24 146. Plaintiff anticipates no difficulty in the management of this litigation as a class
25 action.

26 **FIRST CAUSE OF ACTION**
27 **Violations of Unfair/Fraudulent Prong of California Business and Professions Code §§**
28 **17200, et seq.**

28 147. Plaintiff repeats and realleges the allegations set forth above as though they were

1 fully set forth herein.

2 148. California Business and Professions Code §§ 17200, *et seq.* prohibits any unlawful,
3 unfair, or deceptive business act or practice.

4 149. Defendant Renovate America has engaged in and continues to engage in unfair and
5 deceptive business practices which are substantially likely to mislead the public by: (i) secretly
6 charging and collecting double interest; (ii) secretly charging and collecting double administrative
7 fees; (iii) secretly failing to credit payments when made; (iv) improperly amortizing HERO Loans;
8 (v) secretly overcharging recording fees; and (vi) improperly calculating the APRs disclosed to
9 HERO Loan-borrowers, all in the manner alleged above.

10 150. Plaintiff relied upon Renovate America's unfair and deceptive acts alleged above
11 when applying for and entering into his HERO Loan, when paying installments due under his
12 HERO Loan, and when paying off his HERO Loan, and was damaged thereby. Had Plaintiff
13 known the truth about the fees, costs, and terms of his HERO Loan, he would not have entered
14 into a HERO Loan or would have done so only for lower fees and costs and on different terms.

15 151. Renovate America's business practices alleged above are unfair and deceptive
16 within the meaning of California Business and Professions Code §§ 17200, *et seq.* because, *inter*
17 *alia*, Renovate America engaged in acts that deceived, or were likely to deceive, the public.

18 152. Defendant Renovate America's conduct resulted in profits and pecuniary gain
19 received from homeowners – *i.e.*, Plaintiff and the other Class members – who entered into HERO
20 Loans.

21 153. As a direct and proximate result of Defendant Renovate America's conduct alleged
22 herein, Renovate America has received ill-gotten gains or profits. Therefore, Renovate America
23 was and is unjustly enriched.

24 154. Pursuant to California Business and Professions Code § 17203, Plaintiff and the
25 Class request restitution or disgorgement of all ill-gotten gains, including profits, obtained in
26 violation of California Business and Professions Code §§ 17200, *et seq.*

27 155. Plaintiff and the Class seek to enjoin Defendant Renovate America from engaging
28 in these wrongful practices, as alleged herein, in the future. There is no other adequate remedy at

1 law and if an injunction is not ordered, Plaintiff and the Class will suffer irreparable harm.

2
3 **SECOND CAUSE OF ACTION**
4 **Violations of Unlawful Prong of California Business and Professions Code**
5 **§§ 17200, *et seq.***

6 156. Plaintiff repeats and realleges the allegations set forth above as though they were
7 fully set forth herein.

8 157. This claim is asserted by Plaintiff on his own behalf and on behalf of the Subclass.

9 158. At all times relevant hereto, Defendant Renovate America originated consumer
10 loans because Renovate America arranged the HERO Loans. Therefore, Renovate America is
11 subject to the provisions of California's Covered Loan Law, California Financial Code §§ 4970, *et*
12 *seq.*, for each HERO Loan.

13 159. Each HERO Loan is a "consumer loan" within the meaning of California Financial
14 Code § 4970(d) because each HERO Loan is a consumer credit transaction secured by real
15 property located in the State of California that is used as the principal dwelling of the HERO Loan
16 borrower.

17 160. Each Subclass member's HERO Loan is a "covered loan" within the meaning of
18 California Financial Code § 4970(b) because the total points and fees charged to each Subclass
19 member exceeded six percent of the total loan amount.

20 161. Under the Covered Loan Law, the total loan amount of each HERO Loan is
21 calculated by subtracting the administrative fee from the principal amount of his or her HERO
22 Loan.

23 162. Renovate America charged Plaintiff an administrative fee of 5.85%, or \$1,333.69,
24 on the total principal amount of his HERO Loan ($\$22,798.12 \times 5.85\% = \$1,333.69$). However,
25 because Renovate America secretly double-counted the disclosed administrative fee charged to
26 Plaintiff, the actual administrative fee charged was, in fact, approximately 6.2135%.

27 163. For all HERO Loans in which the disclosed administrative fee was 5.70% or
28 greater, the actual administrative fee was, in fact, greater than six percent. Therefore, Plaintiff's
and each Subclass member's HERO Loan is a "covered loan" as defined by California Financial

1 Code § 4970(b) because the total points and fees payable exceed six percent of the total loan
2 amount.

3 164. Plaintiff's HERO Loan contained two prepayment penalties that exceed 36 months
4 after the date of consummation of the HERO Loan. *First*, Plaintiff's HERO Loan contained a
5 five-year prepayment penalty of a percentage of the principal amount of the HERO Loan. *Second*,
6 Plaintiff's HERO Loan contained a prepayment penalty during the entire loan term that required
7 him to pay interest to the earlier of March 2 or September 2 occurring at least 90 days following
8 the date of the prepayment.

9 165. Every Subclass member's HERO Loan contains a prepayment penalty that lasts the
10 entire loan term, because the HERO Loan documents require HERO Loan borrowers to pay
11 interest that is calculated by treating the HERO Loan balance as outstanding for a period of time
12 *after* repayment in full and then applying the interest rate to such "balance." Therefore, Renovate
13 America violated California Financial Code § 4973(a)(1) because that section prohibits a covered
14 loan from containing a prepayment penalty after the first 36 months after the date of
15 consummation of the loan.

16 166. Renovate America originated a covered loan to each Subclass member without
17 considering his or her current and expected income, current obligations, employment status, and
18 other financial resources and based its approval of the HERO Loan almost entirely on the Subclass
19 member's equity in the dwelling that secured the HERO Loan in violation of California Financial
20 Code § 4973(f).

21 167. The proceeds of Plaintiff's HERO Loan were paid directly to Plaintiff's contractor
22 in violation of California Financial Code § 4973(g). Upon information and belief, the proceeds of
23 each Subclass member's HERO Loan were paid to the Subclass member's contractor in violation
24 of California Financial Code § 4973(g).

25 168. Renovate America did not provide the disclosure required by California Financial
26 Code § 4973(k) to Plaintiff or any Subclass member before or after Plaintiff and the other
27 Subclass members signed their HERO Loan documents.

28 169. California Financial Code § 4973(n) prohibits a person who originates a covered

1 loan from acting in any manner, whether specifically prohibited by California Financial Code §
2 4973 or of a different character, that constitutes fraud.

3 170. As alleged above, Renovate America: (i) secretly double-counted accrued interest
4 charged on HERO Loans; (ii) secretly double-counted administrative fees charged on HERO
5 Loans; (iii) secretly charged an administrative fee on capitalized interest; (iv) secretly did not
6 apply payments on HERO Loans when those payments were made; and (v) secretly overcharged
7 recording fees. These acts constitute fraud and are prohibited by California Financial Code §
8 4973(n).

9 171. Renovate America has engaged in and continues to engage in unlawful business
10 practices which are substantially likely to mislead the public by committing the acts in violation of
11 the Covered Loan Law alleged above.

12 172. As a direct and proximate result of Renovate America's conduct alleged herein,
13 Renovate America has received ill-gotten gains or profits. Therefore, Renovate America was and
14 is unjustly enriched.

15 173. Pursuant to California Business and Professions Code § 17203, Plaintiff and the
16 Subclass request restitution or disgorgement of all ill-gotten gains, including profits, obtained in
17 violation of California Business and Professions Code §§ 17200, *et seq.*

18 174. Plaintiff and the Subclass seek to enjoin Renovate America from engaging in these
19 wrongful practices, as alleged herein, in the future. There is no other adequate remedy at law and
20 if an injunction is not ordered, Plaintiff and the Subclass will suffer irreparable harm.

21 **THIRD CAUSE OF ACTION**
22 **Tortious Interference with Contract**

23 175. Plaintiff repeats and realleges the allegations set forth above as thou they were fully
24 set forth herein.

25 176. Plaintiff entered into Assessment Contracts with SANBAG as alleged herein.

26 177. At all times, Renovate America was aware of the existence of these Assessment
27 Contracts between, on the one hand, Plaintiff and the Class Members and, on the other, SANBAG.

28 178. The Assessment Contracts executed by Plaintiff nowhere authorizes Renovate

1 America to: (i) charge and collect double interest; (ii) charge and collect double administrative
2 fees; (iii) fail to credit payments when made; (iv) improperly amortize his HERO Loan; (v)
3 overcharge recording fees; and (vi) improperly calculate the APRs disclosed to HERO Loan
4 borrowers.

5 179. Defendant Renovate America imposed the unauthorized fees described above on
6 Plaintiff and Class Members.

7 180. Therefore, Defendant Renovate America knowingly, intentionally, and tortiously
8 interfered with the performance of Plaintiff's and the Class Members Assessment Contracts.

9 181. Renovate America's tortious interference has resulted in an actual breach of
10 Plaintiff's and the Class Members' Assessment Contracts because Plaintiff and the Class Members
11 have been assessed fees not authorized by the Assessment Contracts.

12 182. As a direct, proximate, and foreseeable result of Defendant Renovate America's
13 tortious interference with Plaintiff and the Class Members' Assessment Contracts, Plaintiff and the
14 Class Members have been injured and sustained damages by not receiving the full benefit of their
15 contractual bargain.

16 183. Plaintiff and the Class Members have performed all, or substantially all, of the
17 obligations imposed on them under the Assessment Contracts.

18 184. As a direct result of Renovate America's breaches, Plaintiff and the Class Members
19 have sustained economic losses and are entitled to compensatory damages in an amount to be
20 proven at trial.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff, on behalf of himself and all others similarly situated, demands
23 relief and judgment against Renovate America as follows:

24 a. certifying the Class and Subclass as requested herein, appointing Plaintiff as class
25 representative for the Class and Subclass and appointing Wolf Haldenstein Adler Freeman & Herz
26 LLP and McLaughlin & Stern LLP as Lead Counsel for the Class and Subclass;

27 b. actual damages in an amount to be determined at trial for those counts for which
28 actual damages are available;

- 1 c. equitable relief for those counts for which equitable relief is available, including
- 2 requiring Renovate America to disgorge or return all monies, revenues and profits obtained by
- 3 means of any wrongful act;
- 4 d. declaratory and/or injunctive relief as described in each count hereinabove;
- 5 e. an award of reasonable attorneys' fees and costs; and
- 6 f. such other relief at law or equity as this Court may deem just and proper.

7 **DEMAND FOR TRIAL BY JURY**

8 Plaintiff hereby demands a trial by jury on all issues so triable.

9 DATED: March 15, 2018

**WOLF HALDENSTEIN ADLER
FREEMAN & HERZ LLP**

10 By: 
11 RACHELE R. RICKERT

12 BETSY C. MANIFOLD
13 manifold@whafh.com
14 RACHELE R. RICKERT
15 rickert@whafh.com
16 750 B Street, Suite 2770
17 San Diego, CA 92101
18 Telephone: 619/239-4599;
19 Facsimile: 619/234-4599

**WOLF HALDENSTEIN ADLER
FREEMAN & HERZ LLP**

18 MARK C. RIFKIN
19 rifkin@whafh.com
20 JANINE POLLACK
21 pollack@whafh.com
22 RANDALL S. NEWMAN
23 newman@whafh.com
24 270 Madison Avenue
25 New York, New York 10016
26 Telephone: 212/545-4600
27 Facsimile: 212/545-4653

MCLAUGHLIN & STERN LLP

24 LEE S. SHALOV
25 lshalov@mclaughlinstern.com
26 260 Madison Avenue
27 New York, New York 10016
28 Telephone: 646/278-4298
Facsimile: 212/448-0066

HERO SAN BERARDINO: 798278

*Interim Class Counsel for Plaintiff Richard Ramos
and the Class*

1 CERTIFICATE OF SERVICE

2 I, Kathryn Cabrera, the undersigned, do declare as follows:

3 I am a resident of the County of San Diego; I am over the age of 18 years, and not a party
4 to, or have any interest in, this legal action; my business address is 750 B Street, Suite 2770, San
5 Diego, California 92101.

6 On March 15, 2018, I served the following document(s):

7 **AMENDED CLASS ACTION COMPLAINT**

8 on the interested parties in this action:

9 **GOODWIN PROCTER LLP**
10 Matthew S. Sheldon
11 Thomas M. Hefferon
12 901 New York Avenue NW 9th Floor East
13 Washington, D.C. 20001
14 Telephone: 202/346-4000
15 Facsimile: 202/346-4444
16 msheldon@goodwinprocter.com
17 thefferon@goodwinprocter.com

GOODWIN PROCTER LLP
Molly K. Madden
Steven A. Ellis
601 South Figueroa Street, 41st Floor
Los Angeles, CA 90017
Telephone: 213/426-2500
Facsimile: 213/623-1673
mmadden@goodwinprocter.com
sellis@goodwinprocter.com

18 *Attorneys for Defendant Renovate America,*
19 *Inc.*

Attorneys for Defendant Renovate America,
Inc.

20 in the manner identified below on all interested parties:

21 () VIA U.S. MAIL – I enclosed a copy of the document identified above in an
22 envelope or envelopes and placed the envelope(s) for collection and mailing on
23 the date and at the place shown above, following our ordinary business practices.
24 I am readily familiar with this business’s practice of collecting and processing
25 correspondence for mailing. On the same day that correspondence is placed for
26 collection and mailing, it is deposited in the ordinary course of business with the
27 U.S. Postal Service, in a sealed envelope with postage prepaid.

28 (XX) VIA ELECTRONIC MAIL – Pursuant to an agreement among the parties,
I served the above document via email to the above parties.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 15th day of March 2018, at San Diego, California.


KATHRYN CABRERA