

ATTORNEY GENERAL OF THE STATE OF NEW YORK
HOUSING PROTECTION UNIT

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In the Matter of

Assurance No. 20-082

**Investigation by LETITIA JAMES,
Attorney General of the State of New York, of**

Russell J. Mainardi, Russell Mainardi Consultants, Help Across America Inc., Help Across America Real Estate LLC; Help Across America Real Estate Solutions LLC, Real Estate Assistance LLC (aka Real Estate Solutions), Real Estate Crisis Resolution Corp., AR Contractors LLC (aka AR Construction Inc.), and AR Construction Management Corp.

Respondents.
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ASSURANCE OF DISCONTINUANCE

The Office of the Attorney General of the State of New York ("OAG") has commenced an investigation pursuant to Executive Law § 63(12) concerning the conduct of Russell J. Mainardi ("Mainardi"), and his related companies Russell Mainardi Consultants, Help Across America Inc. (aka Help Across America Real Estate LLC; Help Across America Real Estate Solutions), Real Estate Assistance LLC (aka Real Estate Solutions), Real Estate Crisis Resolution Corp., AR Contractors LLC (aka AR Construction Inc.) and AR Construction Management Corp. (collectively, the "Respondents") with respect to real estate consulting, financing and construction contracting with, and on behalf of, the Spring Valley Housing Development Fund Corporation ("SVHDFC"). This Assurance of Discontinuance ("Assurance") contains the findings of the OAG's investigation as it relates to these parties, whether acting through their respective directors, officers, employees, representatives, agents, affiliates, or subsidiaries and relief agreed to by the OAG and the Respondents (collectively, the "Parties").

OAG's FINDINGS

1. Russell Mainardi holds himself out as a real estate consultant specializing in distressed properties. He purports to assist property owners in "real estate solutions", including obtaining financing to avoid foreclosure and bankruptcy, and assisting in capital construction needs. However, Mainardi has none of the requisite knowledge or experience needed to appropriately assist owners of distressed properties.

2. Mainardi has also acted as a mortgage broker, general contractor and property manager. Mainardi holds no business, trade or professional licenses; he is not a real estate or mortgage broker, nor is he a certified financial advisor or licensed contractor. In fact, Mainardi has past state and federal criminal felony convictions for fraud in the mortgage lending process, and tax evasion.

3. Between 2011 and 2019, Mainardi incorporated at least seven entities purporting to provide real estate services to property owners. In some instances, as detailed below, Mainardi fraudulently misrepresented the companies' principals to conceal that he, in fact, was the sole member.

- "Help Across America Inc." (hereinafter "HAA") was incorporated in the State of New Jersey on or about December 6, 2011.
- "Help Across America Real Estate Limited Liability Company" was incorporated on or about February 20, 2013 in the State of New Jersey.
- "Help Across America Real Estate Solutions LLC" was incorporated on or about February 20, 2013 in the State of New Jersey.
- "Real Estate Assistance LLC" aka Real Estate Solutions (hereinafter "REA") was incorporated in the State of New Jersey on or about November 16, 2012.
- "Real Estate Crisis Resolution Corp." (hereinafter "RE Crisis") was incorporated in the State of New Jersey by Mainardi on or about October 23, 2019.

- “AR Contractors LLC” (hereinafter “AR Contractors”) was incorporated in the State of New Jersey on or about March 6, 2016 to act as a general contractor. Mainardi registered [REDACTED] as the corporation’s agent, listing his address as [REDACTED], a residential public housing apartment complex. The registered business address for the corporation is 3 Greenwich Drive, suite 120, Jersey City, NJ 07305. In fact, [REDACTED] had no role in the company and subsequently, Mainardi claimed to be its President and is its sole member.
- “AR Construction Management Corp.” (hereinafter “AR Management”) is a corporation formed by Mainardi in the State of New Jersey on or about May 2, 2019.

4. Mainardi has also conducted business using the additional unincorporated business names “Russell Mainardi Consultants” and “AR Construction Inc.” (hereinafter “AR Construction”). In documents submitted to lenders, Mainardi fraudulently claimed that AR Construction’s president was [REDACTED]. However, [REDACTED] does not and has never had, a real role or business connection to AR Construction.

5. None of Mainardi’s incorporated or unincorporated business entities has any employees, other members or shareholders. Mainardi personally handles all aspects of these businesses, to extent that there is any business to conduct.

6. Spring Valley Housing Development Fund Corporation (hereinafter “SVHDFC”) is a low-income co-operative incorporated under Article XI of the NYS Private Housing Finance Law and the Business Corporation Law. SVHDFC owns a 54 (fifty-four) unit building located at 18-36 Columbus Avenue, Spring Valley, NY 10977 (the “Building”) and was incorporated exclusively to provide housing on a non-profit, co-operative basis for persons of low income. SVHDFC initially obtained loans from the United States Department of Housing and Urban Development (“HUD”) for the Building. The majority of the shareholder residents are Haitian-American immigrants whose primary language is French Creole.

7. The Building had fallen into disrepair causing it to fail HUD inspections. While SVHDFC did not default in its mortgage payments, HUD commenced a foreclosure action based on the failed inspections. In early September 2007, SVHDFC filed a voluntary bankruptcy petition to forestall foreclosure on their HUD backed loan. However, while filing for bankruptcy stayed the HUD foreclosure, the petition remained unresolved for several years because of an inability to find a lender to fund necessary capital improvements and pay off HUD's mortgage.

8. During this period and beyond, from at least early 2008 until November 2019, ██████████ was the Board President of SVHDFC. In early 2014, the bankruptcy petition was in danger of being dismissed and HUD foreclosing on the property. ██████████, who had a limited education and for whom English was a second language, saw Mainardi advertising his purported expertise in working with distressed buildings facing foreclosure on a Haitian television program. Convinced that SVHDFC shareholders would be imminently losing their homes, Alcimas turned to Mainardi for assistance in obtaining a financing deal.

9. In April 2014, SVHDFC, by ██████████, signed a contract with Mainardi's HAA for "real estate consulting" services, including obtaining mortgage refinancing of up to two million dollars. The contract was prepared by Mainardi and charged SVHDFC \$175-\$195 per hour for Mainardi's "consulting and real estate solutions" services as well as tens of thousands of dollars for "processing", "due diligence", "success" and "construction management" fees.

10. Purportedly under the terms of this contract, HAA charged alleged expenses and reimbursements for materials, repair and construction work to the SVHDFC. One year into this two-year contract, in March 2015, Mainardi and SVHDFC entered into an addendum, also prepared by Mainardi, which made the contract "irrevocable" for five years. There was no negotiation between SVHDFC and HAA over the April 2014 or March 2015 contract and

addendum and SVHDFC was not represented by an attorney in connection with any of these agreements. Within four months of signing the "consulting" contract in April 2014, Mainardi had billed the SVHDFC over \$100,000.00.

11. Mainardi did not reveal his lack of experience or that he had past felony criminal convictions to SVHDFC when he contracted with them in April 2014 for "real estate solutions services". Seven years earlier, in June 2007, Mainardi pled guilty and was federally convicted for income tax evasion. The underlying charges against him also included mortgage fraud by means of submitting false information to banks to obtain loans. Mainardi served approximately 10 months in jail and a subsequent two-year supervised release program. Mainardi also pled guilty to "theft by failure to make required disposition of property received" under the penal code of the State of New Jersey and was sentenced in June 2007.

12. In addition to holding no professional licenses and having a history of criminal convictions, Mainardi had never worked with a distressed multi-family property and had no experience with co-operative residences or low income HDFCs or other income restricted properties. Mainardi had no knowledge of the rules or restrictions that relate to these types of properties.

13. In June 2014, Respondent Mainardi told his then girlfriend, [REDACTED], who held a real estate broker's license, that he needed a property manager for the SVHDFC. Though she had obtained her broker's license, [REDACTED] similarly had no previous experience in property management, no previous experience with cooperatives, no previous experience with housing development fund corporations, and no previous experience managing properties in financial or physical distress.

14. One month later, on July 1, 2014, ██████████ incorporated Chase Property Management Group (“Chase PMG”), pursuant to Mainardi’s instructions and signed both a June 2014 contract and addendum with SVHDFC for purported property management services to be provided by Chase PMG. The June 2014 contract was prepared by Mainardi based on a template from the internet. Mainardi also prepared the addendum. Under these agreements (and a subsequent “irrevocable” ten-year extension agreement, also prepared by Mainardi and signed by ██████████ in August 2018), Chase PMG would be paid a monthly fee of \$2,500.00, an additional fee of \$150 per hour for site visits and meetings, as well as a 6% commission for unit sales. There was no negotiation between the SVHDFC and Chase PMG for the June 2014 or August 2018 contracts and addendums and the SVHDFC was not represented by an attorney in these transactions.

15. During the approximately five-year period, from 2014-2019, that Mainardi was involved with the SVHDFC, he engaged in a series of misleading, illegal and fraudulent transactions. Mainardi created an essentially “no-show” job for his girlfriend as property manager for SVHDFC. He double billed the co-op for work he claimed he did that ██████████ was also compensated for as property manager. He created phony construction companies, submitting fraudulent instruments to lenders to induce loans to be made and billed the SVHDFC for capital construction work that was never done or insufficiently done by his entities. Mainardi

also billed SVHDFC for ordinary repair and renovation work for which he had no contract and no agreed upon rate of compensation. Mainardi stole outright from SVHDFC bank accounts for personal gain.

16. Mainardi also set up [REDACTED] with compensated work. After Mainardi became involved with the building, he worked to obtain a Board resolution that ensured that [REDACTED] while acting as Board President, was paid \$3,000.00 per month by SVHDFC to act as the buildings' superintendent. [REDACTED] also had his monthly maintenance fee for his co-operative apartment "waived".

17. [REDACTED] was given the duty of collecting monthly maintenance payments from the shareholders and giving them to Mainardi, who then deposited them into one of SVHDFC's bank accounts. While [REDACTED] were the signatories to SVHDFC's capital funds and general operating bank accounts, Mainardi had full access to the accounts, including access to debit cards and pre-signed blank checks that [REDACTED] gave to [REDACTED] and Mainardi for their use.

18. After SVHDFC signed a contract with HAA in 2014, Mainardi handled all aspects of procuring mortgage re-financing for the SVHDFC. In January 2015, Mainardi submitted a loan application on behalf of the SVHDFC to "100 Mile Fund", a private money lender, seeking a high interest, short term loan for capital expenditures for SVHDFC and for funds to pay off other debt, legal fees and back taxes. As part of the loan application, Mainardi submitted a fraudulent construction proposal and contract from "Sucar LLC" to 100 Mile Fund. Sucar LLC was a company owned by his girlfriend, [REDACTED], but was not in fact an active business of any kind and was not a general contractor/construction company. Mainardi

fraudulently represented to the lender that [REDACTED]'s mother, [REDACTED] was the President of Sucar LLC. In fact, [REDACTED] was a factory worker living in public housing and had nothing to do with the alleged construction company.

19. In May 2015, Mainardi, appeared in federal bankruptcy court with [REDACTED] and was able to get the court to discharge the bankruptcy petition on the representation that the SVHDFC had secured funding from 100 Mile Fund to pay its debts and make capital improvements. During 2015, while in discussions with 100 Mile Fund, Mainardi was simultaneously discussing a potential loan with another private money lender, TBG Funding LLC ("TBG").

20. In October 2015, AR Contractors, one of the incorporated entities that Mainardi controlled, signed a "construction contract" with [REDACTED] for \$603,140.00 without SVHDFC Board resolution or approval. The contract was purportedly signed by [REDACTED] as President of AR. However, [REDACTED] the brother of [REDACTED] had no role in the company and was never its President. Mainardi later claimed to be the President of AR. This alleged capital projects contract was not submitted to 100 Mile Fund, though the construction contract, dated November 9, 2015, from the phony Sucar LLC was submitted instead for the same amount, \$603,140.00. Mainardi sought to hide his relationship with the intended contractor, AR, from 100 Mile Fund so the loan could be secured and intended to draw down the funds but do the construction work cheaply himself, keeping the proceeds.

21. On or about December 16, 2015, 100 Mile Fund, closed on a mortgage of approximately \$1.5 million to SVHDFC. Mainardi was the primary communicator with the lender, procuring and providing all documentation necessary to obtain the loan. At closing,

Mainardi's company HAA, his girlfriend's company, Chase PMG and [REDACTED] were all allocated \$25,000.00 each in alleged debt due to them from SVHDFC.

22. However, 100 Mile Fund's principal, Billy Procida, learned that Russell Mainardi had undisclosed felony criminal convictions for mortgage fraud and tax evasion. Based on this, Procida investigated other aspects of the loan submission and learned that Sucar LLC's purported "headquarters" was a public housing apartment in Brooklyn and that Sucar was not an actual business. 100 Mile Fund determined that it would hold back a large portion of the loan in escrow until SVHDFC obtained a new legitimate construction contractor unaffiliated in any way with Mainardi.

23. Instead of finding an unaffiliated contractor, Mainardi convinced [REDACTED] that SVHDFC simply needed to find a new lender to pay off 100 Mile Fund, enabling Mainardi to proceed with his companies in control of the capital construction funds. In January 2016, Mainardi reengaged with the lender TBG for a second re-financing mortgage to replace 100 Mile Fund.

24. To secure the TBG loan, Mainardi withdrew the Sucar LLC proposal he had sent to TBG months earlier, telling TBG that SVHDFC would be going with a "local contractor" in New Jersey instead of Brooklyn and submitted to TBG a purported construction proposal from "AR Construction Inc." using a New Jersey business address, for \$282,860.00.

25. The AR Construction proposal was dated January 12, 2016 and alleged that an [REDACTED] was the company President. Mainardi forged [REDACTED]'s signature on the document, in an effort to, once again, fraudulently hide Mainardi's connection to the purported contractor from the lender. In fact, AR Construction was an unincorporated entity and Mr. [REDACTED] was a licensed plumber who Mainardi hired to do minor plumbing repair jobs in the

past. [REDACTED] had no interest in or association with, the fictional AR Construction. [REDACTED] also had no knowledge that Mainardi forged his signature to the construction proposal submitted to TBG from AR Construction.

26. On February 18, 2016, SVHDFC and TBG were set to close on a new loan for \$1.74 million, a mere 2 months after procuring the 100 Mile loan. On the same day of the closing with TBG, Mainardi got [REDACTED] and two other SVHDFC Board members to sign a "Written Consent in Lieu of a Meeting" which purported to give [REDACTED] unanimous Board authority to sign a new mortgage with TBG. However, the written "unanimous" Board consent was signed by only three Board members (despite SVHDFC's Bylaw requirement that the Board be made up of five-members) and not all Board members who held office at that time were informed about the document or asked to sign it. Specifically, Mainardi and [REDACTED] were aware that [REDACTED] was an active Board Member of SVHDFC, but her consent to approve the new \$1.7 million loan with TBG was not sought. Mainardi knew that [REDACTED] would have questioned the need for the new loan which both incurred several thousands of dollars in additional closing costs for SVHDFC and therefore sought \$200,000.00 in additional funds.

27. Proceeds from the TBG loan were used to pay off funds obtained from the 100 Mile Fund mortgage, the approximately \$148,000.00 in new closing costs and \$20,395.00 to Mainardi's company, HAA. [REDACTED] and Chase PMG were also paid \$6,250.00 and \$4,605.00 respectively at this second closing, which was just two months after the first loan closing at which they had each also been paid \$25,000.00.

28. After the TBG loan closed and for the next three years, from March 2016- approximately October 2019, Mainardi stole from and defrauded the SVHDFC. Mainardi ensured that he had access to SVHDFC funds by convincing [REDACTED] to give his girlfriend,

██████████ pre-signed blank checks. As the purported property manager and co-signor on the SVHDFC bank accounts, she disbursed funds as directed by Mainardi. Mainardi submitted requisitions to the lender to be paid to SVHDFC on behalf of the phony general contractor, AR Construction. He would then have ██████████ make checks out to his similarly named, incorporated business entity, "AR Contractors".

29. However, much of the construction work was simply never undertaken by his companies or the legitimate subcontractors that he either failed to engage (using cheaper day laborers and keeping the proceeds) or failed to fully compensate, keeping the remainder. In addition, he also billed SVHDFC for general contracting, repair and renovation work to apartments and building infrastructure, including for construction materials that he had already received compensation for in requisitions from the lender, when he had no contract with SVHDFC to perform this work or that even set the price of the work.

30. Finally, Mainardi used SVHDFC funds for his own personal use, accessing SVHDFC's debit/bank cards to make purchases and withdraw funds at will from SVHDFC bank accounts. Mainardi made ATM cash withdrawals and purchases for goods and services for himself including, but not limited to, clothing, airline tickets, home goods, antiques, ski equipment and Spanish lessons. Over a period of five years, Mainardi illegally withdrew hundreds of thousands of dollars from SVHDFC accounts.

31. In February 2017, SVHDFC, by Mainardi, sought and obtained an extension of the maturity date on SVHDFC's loan with TBG for an additional year to March 9, 2018. The plan was to seek long term financing to pay off the short term \$1.7 million-dollar TBG construction loan, another approximately \$200,000.00 loan from Rockland County (which had been subordinated to the TBG loan) and to have access to funds to purportedly do additional

renovation work.

32. In September 2017, Mainardi assigned the alleged “remaining” interest in his HAA consulting contract to another of his entities “Real Estate Assistance LLC” (“REA”) and signed yet another contract with SVHDFC for Mainardi to secure a new long term loan of two million dollars or more, “plus costs” to pay off the existing loans and to do “conversion work” to remove the premises from co-operative ownership. The contract granted REA a \$25,000.00 “processing fee”, a \$195/hour consultant fee, expenses and a “success” fee. That month, to prevent SVHDFC from defaulting on the TBG loan and to ensure the ability of SVHDFC to secure long term funding from another lender, Mainardi convinced SVHDFC to increase shareholders’ maintenance payments by approximately \$250.00 per month temporarily for about six months.

33. At the end of 2017 and in 2018, Mainardi recorded a series of fraudulent liens and judgments against the Buildings so that either his “debts” would have to be paid off to clear title (if SVHDFC obtained new financing), or they would be paid off in a foreclosure sale. In November 2017, Mainardi used his incorporated company, AR Contractors, to record a Mechanic’s Lien in the amount of \$143,631.00 against the Building.¹ In the lien, Mainardi claimed for the first time that he, not ██████████ was the President of AR Contractors. Just a few months later, in January 2018, Mainardi also arranged for ██████████ to sign an Affidavit

¹The Mechanic’s Lien against the Building was for alleged unpaid sums pursuant to SVHDFC’s unapproved “construction contract” with AR Contractors for \$603,140.00 that Mainardi had Alcimas sign in October 2015. In fact, there was no basis to claim unpaid construction/labor costs to AR Contractors. SVHDFC had paid more than the construction contract amount approved by TBG (under a proposal from “AR Construction” for \$282,860.00) and the alleged contract with AR Contractors for \$603,140.00, a phony contractor, had never been approved by the SVHDFC Board.

in support of a Confession of Judgment in Mainardi's favor. The Judgment, docketed against the Building in Rockland County Supreme Court and recorded with the county Clerk, was entered in favor of REA in the amount of \$84,075.00. The sum was a fictional amount of money allegedly owed by SVHDFC on the balance of the unconscionable HAA "consulting contract" that was later assigned to REA. In March 2018, having failed to secure long term financing for the SVHDFC, the TBG loan matured and SVHDFC fell further into debt as default interest accumulated on top of unpaid monthly mortgage payments.

34. Five months later, in July 2018, with no viable long-term financing and a foreclosure proceeding by TBG against the Building almost certain, Mainardi arranged for ██████████ to sign another Affidavit in support of a second Confession of Judgment. The second judgment, also in REA's favor, was for \$426,156.00 allegedly due pursuant to the September 2017 contract with Mainardi for failed refinancing and conversion work. The second Judgment was similarly docketed against SVHDFC in Rockland County Supreme Court and recorded in the Clerk's office.

35. On or about December 12, 2018, TBG sued the SVHDFC in foreclosure for defaulting on their loan repayment obligations. Mainardi's entities, AR Contractors and REA, were named as Defendants because of the judgments and lien that they held against the property. ██████████ was named individually because he personally guaranteed one of the TBG loans. Chase PMG was also named because it too filed a Confession of Judgment against the Building in its favor. Mainardi secured an attorney, Adam Kurland, Esq., to simultaneously represent all the Defendants, SVHDFC, AR Contractors, REA and Chase PMG in the foreclosure..

36. At the request of the OAG while its investigation into the Respondents was ongoing, on or about August 26, 2020, Respondent Mainardi, in his capacity as a principal of

REA, signed waivers and satisfactions of the two Judgments REA held against SVHDFC which were fraudulently obtained in its favor by ██████ Confession of Judgments. Similarly, Mainardi signed a waiver and satisfaction of a fraudulent Mechanic's Lien held by his company AR Contractors LLC. against SVHDFC. The waiver and satisfaction of the two Judgments obtained by REA, in the amounts of \$84,075.00 and \$426,156.00 totaling \$510,231.00, were filed with Rockland County Supreme Court on or about September 4, 2020. (Exhibit A.) The waiver and satisfaction of Mechanic's Lien in the amount of \$143,631.00 was signed by Mainardi, as President of AR Contractors on August 26, 2020 and the original was sent to the Rockland County Clerk to be recorded on or about September 30, 2020. (Exhibit B).

37. Mainardi represents that the SVHDFC and its individual shareholders, do not owe any sums of money to the Respondent Mainardi or any of Mainardi's related companies or entities, pursuant to any contract or otherwise, as of the effective date of this Assurance. This includes, but is not limited to, Respondent Mainardi's representation in his August 26, 2020 financial statement to the OAG, that he and/or one of his entities has an outstanding "loan" in the amount of \$653,750.00 owed to him by the SVHDFC.

38. OAG finds that Respondent Mainardi, including his companies and entities, violated Executive Law § 63(12) by:

- a. fraudulently inducing SVHDFC to enter into and pay under unconscionable, and in some instances fraudulent, contracts;
- b. presenting fraudulent instruments to third party lenders, inducing them to provide funds to the SVHDFC;

- c. causing SVHDFC to incur hundreds of thousands of dollars in unnecessary costs on the second loan from TBG when 100 Mile Fund uncovered his fraudulent submissions;
- d. inducing SVHDFC to install his girlfriend, [REDACTED] into a position as a “no-show” property manager, double billing the co-op for the same management tasks allegedly performed both by her and his own entities;
- e. failing to complete promised SVHDFC capital needs projects and taking hundreds of thousands of dollars in SVHDFC loan proceeds for incomplete and unsatisfactory work;
- f. undertaking ordinary repair work without a contract and without an agreed upon rate of compensation;
- g. expending general operating funds for personal goods and services;
- h. filing fraudulent Confessions of Judgment and a Mechanic’s Lien with the Rockland County Supreme Court.

39. Respondents admit the OAG’s Findings, Paragraphs (1)-(38) above.

40. Respondent Mainardi submitted a personal and corporate Financial Statement dated August 26, 2020, to the OAG documenting and certifying his individual and corporate financial circumstances under penalty of perjury. The parties enter this Assurance in reliance on Respondents’ representations that the information contained in his financial statement is accurate. The financial statement is appended and incorporated into this AOD. (Exhibit C.)

41. The OAG finds the relief and agreements contained in this Assurance appropriate and in the public interest. THEREFORE, the OAG is willing to accept this Assurance pursuant to Executive Law § 63(15), in lieu of commencing a statutory proceeding for violations of

Executive Law § 63(12) based on the conduct described above during the period of years between 2014-2019.

IT IS HEREBY UNDERSTOOD AND AGREED, by and between the Parties:

RELIEF

42. **General Injunction:** Respondents shall not engage, or attempt to engage in conduct in violation of any applicable laws, including but not limited to Executive Law § 63(12), and expressly agree and acknowledge that any such conduct is a violation of the Assurance, and that the OAG thereafter may commence the civil action or proceeding contemplated in paragraph 41, supra, in addition to any other appropriate investigation, action, or proceeding.

43. **Other Injunctive Relief:**

a. Respondents agree to be permanently enjoined from directly or indirectly engaging in any business activity in the State of New York related to real estate development or real estate financing of existing residential properties. This includes, but is not limited to, such activities as acting as a mortgage broker (whether licensed or not); obtaining real estate financing for Respondent, his corporations or entities, and/or on behalf of other owners of existing residential properties. The injunction shall also include Respondents not managing, directing or otherwise being involved in the development, construction or renovation of existing residential properties. This injunction shall not apply to Respondent Mainardi's own primary personal residence or development and/or construction of new residential or commercial buildings.

b. Respondents agree not to engage in any fraudulent business practices including, but not limited to, fraud in real estate financing or development transactions.

c. Respondents agree that, should they violate the permanent injunctions against conducting real estate business in New York State and fraudulent business practices contemplated above, the OAG may file a proceeding in State Supreme Court seeking entry of a judgment for a permanent injunction against the prohibited conduct above and that their only defense thereto is that the default conduct that took place after signing this Assurance did not constitute a violation of the enjoined activity in paragraph 43 of the Assurance..

d. The remedies contained in paragraph 43(c) of this Assurance shall be in addition to any other remedies the OAG shall have, whether under this Assurance or elsewhere, and shall not preclude the OAG from seeking alternative remedies either separately or combined with the remedy in paragraph 43(c).

44. Programmatic Relief:

a. Respondent Mainardi agrees, that within 30 calendar days of the signing of this Assurance, he will correct the corporate registration for "AR Contractors LLC" with the State of New Jersey to reflect that he is the sole member of the corporation. Mainardi will update the registered business address for the corporation to reflect his own business address. Mainardi will also discontinue the use of the unincorporated business name, AR Construction Inc., and will discontinue using the individual names of [REDACTED] and [REDACTED] in association with any of his business or corporate relationships. To the extent that Mainardi continues to do business in New York State using the name "Russell Mainardi Consultants", Mainardi will also, within 30 calendar days of the signing of this Assurance, file the appropriate documents to incorporate these businesses and will reflect his ownership interests (i.e. sole member) Mainardi shall produce evidence of the above corrections and filings within 45 calendar days of the signing of this Assurance by first class regular and electronic mail to the

OAG as indicated in paragraph 52 below concerning written communications. Respondent Mainardi will discontinue referring to himself as a NYS real estate developer/solutions consultant of existing residential housing in New York State on traditional (television, radio and print news outlets) and social media platforms, including but not limited to “LinkedIn”, “Facebook”, “Instagram” and “Twitter” and will make corrections accordingly to any existing posts.

b. Respondent expressly agrees and acknowledges that a default in the performance of any obligation under this paragraph regarding programmatic relief is a violation of the Assurance and that the OAG thereafter may commence the civil action or proceeding contemplated in paragraph 41, *supra*, in addition to any other appropriate investigation, action, or proceeding, and that evidence that the Assurance has been violated shall constitute prima facie proof of the statutory violations pursuant to Executive Law § 63(15).

c. The remedies contained paragraph 44(b) of this Assurance shall be in addition to any other remedies the OAG shall have, whether under this Assurance or elsewhere, and shall not preclude the OAG from seeking alternative remedies either separately or combined with the remedy in paragraph 44(b).

45. Monetary Relief Payment to the OAG:

a. *Monetary Relief Amount with Suspended Payment:* Respondents shall pay to the State of New York \$310,000.00 in restitution and disgorgement (the “Monetary Relief Amount”).² However, in reliance upon representations made by Respondent in his personal and corporate Financial Statement submitted to the OAG on or about August 26, 2020, and any

² The Monetary Relief Amount does not represent the full amount that the OAG believes is owed as restitution to SVHIDFC nor does it include any other additional restitution, disgorgement or penalties the OAG believes may be owed.

related continued financial disclosure provided by Respondent, as described herein, the OAG agrees to suspend payment of \$250,000.00 from said Monetary Relief Amount, provided that Respondent does not materially violate this Assurance and makes a timely payment of the unsuspended balance of \$60,000.00 pursuant to the payment schedule *infra*. Material violation of this Assurance or failure to pay the unsuspended balance in full within the time-periods described *infra* is a default in payment under the terms of this Assurance and the OAG will file and enter judgment for the full Monetary Relief Amount, including the suspended balance, less any payments made prior to default, plus the collection fees and statutory costs described below, pursuant to the process described in paragraph 47 below. This is in addition to any other remedies the OAG may have under this Assurance or elsewhere.

b. Payment Schedule:

- Respondents shall make an initial payment of \$10,000.00 on or before December 31, 2020.
- Respondents shall make payment of the remaining \$50,000.00 within no later than three calendar years from the effective date of this Assurance pursuant to a semi-annual payment schedule as follows:
 - i. Payment of a first installment of at least \$8,333.00 by June 30, 2021;
 - ii. Payment of a second installment of at least \$8,333.00 by December 31, 2021;
 - iii. Payment of a third installment of at least \$8,333.00 by June 30, 2022;
 - iv. Payment of a fourth installment of at least \$8,333.00 by December 31, 2022.
 - v. Payment of a fifth installment of at least \$8,333.00 by June 30, 2023.

vi. Payment of a final amount of \$8,335.00 by December 31, 2023.

- Respondents may make pre-payments at any time. Pre-payments shall be credited to the earliest installment payment(s) due. Unless otherwise agreed in writing, upon Respondents' failure to timely pay an installment, the entire balance will immediately become due.
- Each payment shall be accompanied by an updated certified financial statement accompanied by a sworn representation that Respondent(s) are in full compliance with all terms of the Assurance. The statement shall also include any necessary updates to Respondents contact information including but not limited to Respondents' mailing address, electronic mail address and landline and cell phone numbers.

c. *Payment Method:* Payment shall be made by wire transfer, attorney check, corporate or certified check, or bank draft which shall be made payable to the "State of New York", and shall reference Assurance No. 20-082. Payments in excess of \$50,000 shall be made by wire transfer with written notification to the OAG. Payments and written notices shall be addressed to the attention of Jane Landry-Reyes, AAG, State of New York, Office of the New York State Attorney General, Housing Protection Unit, 28 Liberty Street, New York, NY 10005, or in her absence, to the person holding the title of Unit Chief, Housing Protection Unit, as indicated in paragraph 52 below regarding written communications.

d. *Judgment by Confession:* To secure the payment described by this paragraph, Respondents will execute and deliver, at the time of the execution and delivery of this Assurance to the OAG, the accompanying Affidavits for Judgment by Confession (attached hereto as Exhibit D) confessing judgment for the Monetary Relief Amount of \$310,000.00 plus collection fees of twenty-two percent (22%) of any unpaid Monetary Relief Amount at the time of any subsequent default, plus statutory costs of \$15.00. OAG will reduce the Monetary Relief Amount by the principal amount of payments made by Respondent to OAG to calculate the Unpaid

Monetary Relief Amount at the time of any subsequent default. The Respondents represent and warrant that the signatory below has been duly authorized to and has the authority to sign an Affidavit in support of Confession of Judgment on behalf of the corporate Respondents in this matter.

46. Distribution of the Monetary Relief Amount to the SVHDFC:

a. The OAG Monetary Relief Amount obtained in paragraph 45, shall be paid by the OAG to the SVHDFC, as restitution. If, in the event the SVHDFC should cease to exist as a non-profit, low income cooperative housing provider either through dissolution of the cooperative association and/or property ownership, the Monetary Relief Amount shall be disbursed equally amongst eligible individuals who own shares in the SVHDFC as of the date of the signing of this Assurance.

b. Upon 10 days written notice to Respondents' counsel and/or Respondent Mainardi, the next scheduled payment shall be re-directed to be made to the SVHDFC or its eligible shareholders in lieu of direct payment to the OAG. Instructions about how payments should be made and delivered shall be contained in said notice.

47. Default in Payment: Should Respondent(s) fail to timely and properly make any of the above payments in accordance with the schedule set forth in paragraph 45, the OAG shall provide Respondent or Respondent's counsel with written notice of such failure by email or by first class regular mail to any last known address for the Respondent(s) reported to the OAG. If Respondent does not cure such failure within 30 calendar days of the date on the OAG's written notice, the OAG may file the Affidavits for Judgment by Confession in State Supreme Court as a judgment against Respondent(s), at any time, and without further notice, for the balance owed

pursuant to this Assurance at the time of default, less any payments made prior to default, plus the collection fees and statutory costs described herein.

48. Default Due to Misrepresentation: Respondents' material misrepresentation of his/its financial circumstances in his/its Financial Statement, or in any other related financial disclosure provided by Respondent which served as a basis for Respondent's representation of an inability to pay and the OAG's agreement to suspend payment of a portion of the Monetary Relief Amount, shall constitute a default under this Assurance. The OAG may, on thirty (30) calendar days written notice to Respondent's counsel by first class mail of its intent to file and enter judgment, file and enter the applicable Affidavits for Judgment by Confession as a Judgment against Respondent, at any time and without further notice, for the balance owed pursuant to this Assurance at the time of this default, including the suspended balance, less any payments made prior to default, plus the collection fees and statutory costs described above.

49. Legal Fees: Respondents shall not pay their legal fees in connection with the OAG's investigation with any monies misappropriated from the SVHDFC.

MISCELLANEOUS

50. Subsequent Proceedings: Respondents expressly agree and acknowledge that the OAG may initiate a subsequent investigation, civil action, or proceeding to enforce this Assurance, for violations of the Assurance, or if the Assurance is voided pursuant to Paragraph 53, and can enforce the specific performance of the relief in this Assurance as the parties would enforce a contract in the case of a breach, based on the conduct described above during the period of years between 2014-2019. Respondents agree and acknowledge that in such event: any statute of limitations or other time-related defenses are tolled from and after the effective date of

this Assurance; the OAG may use statements, documents or other materials produced or provided by the Respondents prior to or after the effective date of this Assurance;

- any civil action or proceeding must be adjudicated by the Courts of the State of New York, and that Respondents irrevocably and unconditionally waive any objection based upon personal jurisdiction, inconvenient forum, or venue; and
- evidence of a violation of this Assurance shall constitute prima facie proof of a violation of the applicable law pursuant to Executive Law § 63(15) and OAG shall seek specific performance of the acts contemplated by this Assurance.
- if a court of competent jurisdiction determines that the Respondent(s) has/have violated the Assurance, the Respondent(s) shall pay to the OAG the reasonable cost, if any, of obtaining such determination and of enforcing this Assurance, including without limitation legal fees, expenses, and court costs.

51. Effects of Assurance:

a) All terms and conditions of this Assurance shall continue in full force and effect on any successor, assignee, or transferee of the Respondents. Respondents shall include in any such successor, assignment or transfer agreement a provision that binds the successor, assignee or transferee to the terms of the Assurance. No party may assign, delegate, or otherwise transfer any of its rights or obligations under this Assurance without the prior written consent of the OAG.

b) Nothing contained herein shall be construed to deprive any person of any private right under the law.

c) Any failure by the OAG to insist upon the strict performance by Respondents of any of the provisions of this Assurance shall not be deemed a waiver of any of the provisions hereof, and the OAG, notwithstanding that failure, shall have the right thereafter to insist upon the strict performance of any and all of the provisions of this Assurance to be performed by the Respondents.

52. Communications: All notices, reports, requests, and other communications pursuant to this Assurance must reference Assurance No.20-082, and shall be in writing and shall, unless expressly provided otherwise herein, be given by hand delivery; express courier; or electronic mail at an address designated in writing by the recipient, followed by postage prepaid mail, and shall be addressed as follows:

If to the Respondents, to:

Michael K. Burke, Esq.
Hodges, Walsh & Burke, LLP
Attorneys at Law
55 Church Street, Suite 211
White Plains, New York 10601
mburke@hwb-lawfirm.com

If to the OAG, to:

Jane Landry-Reyes, AAG
Housing Protection Unit
Office of the New York State Attorney General
28 Liberty Street
New York, NY 10005
Jane.Landry@ag.ny.gov

or in her absence, to the person holding the title of Unit Chief, Housing Protection Unit.

53. Representations and Warranties:

a) The OAG has agreed to the terms of this Assurance based on, among other things, the representations made to the OAG by the Respondents and their counsel and the OAG's own factual investigation as set forth in Findings, Paragraphs (1)-(38) above. The Respondents represent and warrant that neither they nor their counsel have made any material representations to the OAG that are inaccurate or misleading. If any material representations by Respondents or their counsel are later found to be inaccurate or misleading, this Assurance is voidable by the OAG.

b) No representation, inducement, promise, understanding, condition, or warranty not set forth in this Assurance has been made to or relied upon by the Respondents in agreeing to this Assurance.

c) The Respondents represent and warrant, through the signatures below, that the terms and conditions of this Assurance are duly approved. Respondents further attest, represent and warrant that Russell J. Mainardi, as the signatory to this Assurance, is a duly authorized officer acting on behalf of and with the ability to bind HAA Inc, HAA Real Estate LLC, HAA Real Estate Solutions LLC, AR Contractors, AR Construction, AR Management, Russell Mainardi Consultants, REA and REA Crisis to the terms of this agreement, including the Confessions of Judgment.

54. General Principles:

a) Unless a term limit for compliance is otherwise specified within this Assurance, the Respondents' obligations under this Assurance are enduring. Nothing in this Agreement

shall relieve Respondents of other obligations imposed by any applicable state or federal law or regulation or other applicable law.

b) Respondents agree not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any finding in the Assurance or creating the impression that the Assurance is without legal or factual basis.

c) Nothing contained herein shall be construed to limit the remedies available to the OAG in the event that the Respondents violate the Assurance after its effective date.

d) This Assurance may not be amended except by an instrument in writing signed on behalf of the Parties to this Assurance.

e) In the event that any one or more of the provisions contained in this Assurance shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, in the sole discretion of the OAG, such invalidity, illegality, or unenforceability shall not affect any other provision of this Assurance.

f) Respondents acknowledge that they have entered this Assurance freely and voluntarily and upon due deliberation with the advice of counsel.

g) This Assurance shall be governed by the laws of the State of New York without regard to any conflict of laws principles.

h) The Assurance and all its terms shall be construed as if mutually drafted with no presumption of any type against any party that may be found to have been the drafter.

i) This Assurance may be executed in multiple counterparts by the parties hereto. All counterparts so executed shall constitute one agreement binding upon all parties, notwithstanding that all parties are not signatories to the original or the same counterpart. Each counterpart shall be deemed an original to this Assurance, all of which shall constitute one

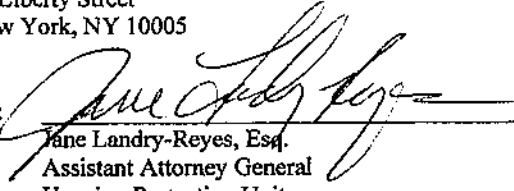
agreement to be valid as of the effective date of this Assurance. For purposes of this Assurance, copies of signatures shall be treated the same as originals. Documents executed, scanned and transmitted electronically and electronic signatures shall be deemed original signatures for purposes of this Assurance and all matters related thereto, with such scanned and electronic signatures having the same legal effect as original signatures.

j) The effective date of this Assurance shall be the date this Assurance is signed by OAG.

Dated: 1/19/2021, 2021
New York, NY

LETITIA JAMES
Attorney General of the State of New York
28 Liberty Street
New York, NY 10005

By:


Jane Landry-Reyes, Esq.
Assistant Attorney General
Housing Protection Unit

RUSSELL J. MAINARDI

Russell J. Mainardi

STATE OF NJ)
COUNTY OF Passaic } ss.:

On this 24 day of Dec, 2020, Russell J. Mainardi, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument, appeared before the undersigned and acknowledged to me that he executed the within instrument by his signature on the instrument.


Sworn to before me this
24 day of Dec, 2020

Jinwan Kim
NOTARY PUBLIC

Jinwan Kim
Notary Public of New Jersey
Commission Expires 01/14/2025
ID#2392729



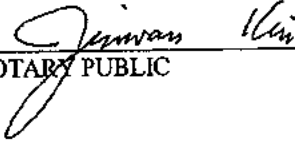
HELP ACROSS AMERICA REAL ESTATE LLC.

By: 
Russell J. Mainardi, President

STATE OF NJ)
COUNTY OF Passaic) ss.:

On the 2nd day of Dec in the year 2020 before me personally came Russell J. Mainardi, to me known, who, being by me duly sworn, did depose and say that he resides at [REDACTED]; that he is the president of Help Across America Real Estate, LLC, the corporation described in and which executed the above instrument; and that he signed his name thereto by like authority.

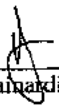
Sworn to before me this
2nd day of Dec, 2020


NOTARY PUBLIC

Jinwan Kim
Notary Public of New Jersey
Commission Expires 9/14/2026
ID#239728



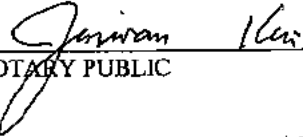
HELP ACROSS AMERICA REAL ESTATE
SOLUTIONS, LLC.

By: 
Russell J. Mainardi, President

STATE OF NJ)
COUNTY OF Passaic) ss.:

On the 28 day of Dec in the year 2020 before me personally came Russell J. Mainardi to me known, who, being by me duly sworn, did depose and say that he resides at [REDACTED]; that he is the president of Help Across America Real Estate Solutions, LLC, the corporation described in and which executed the above instrument; and that he signed his name thereto by like authority.


Sworn to before me this
28 day of Dec, 2020


NOTARY PUBLIC

Jirwan Kjo
Notary Public of New Jersey
Commission Expires 01/14/2026
ID#2392729



REAL ESTATE CRISIS RESOLUTION CORP.

By: 
Russell J. Mainardi, President

STATE OF NJ)
COUNTY OF Passaic } ss.:

On the 24 day of Dec in the year 2020 before me personally came Russell J. Mainardi to me known, who, being by me duly sworn, did depose and say that he resides at [REDACTED]; that he is the president of Real Estate Crisis Resolution Corp., the corporation described in and which executed the above instrument; and that he signed his name thereto by like authority.

Sworn to before me this
24 day of Dec, 2020


NOTARY PUBLIC

Jinwan Kim
Notary Public of New Jersey
Commission Expires 01/14/2028
ID#2392728



AR CONSTRUCTION MANAGEMENT CORP.

By: [Signature]
Russell J. Mainardi, President

STATE OF NJ)
COUNTY OF Passaic) ss.:

On the 21 day of Dec in the year 2020 before me personally came Russell J. Mainardi to me known, who, being by me duly sworn, did depose and say that he resides at [Redacted]; that he is the president of AR Construction Management Corp., the corporation described uj and which executed the above instrument; and that he signed his name thereto by like authority.


Sworn to before me this
21 day of Dec, 2020

[Signature]
NOTARY PUBLIC

Jinwan Kim
Notary Public of New Jersey
Commission Expires 01/14/2025
ID#2382729



RUSSELL MAINARDI CONSULTANTS

By: 
Russell J. Mainardi, President

STATE OF NJ)
COUNTY OF Passaic) ss.:

On the 24 day of Dec in the year 2020 before me personally came Russell J. Mainardi to me known, who, being by me duly sworn, did depose and say that he resides at [REDACTED] that he is the president of Russell Mainardi Consultants, the corporation described in and which executed the above instrument; and that he signed his name thereto by like authority.

Sworn to before me this
24 day of Dec, 2020


NOTARY PUBLIC

Jiwon Kim
Notary Public of New Jersey
Commission Expires 01/14/2025
ID#2352728

