

ENDORSED  
FILED  
ALAMEDA COUNTY

MAR 21 2006

CLERK OF THE SUPERIOR COURT  
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18 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
19 FOR THE COUNTY OF ALAMEDA

20 THE PEOPLE OF THE STATE OF  
CALIFORNIA, by the Attorney General, the  
21 California Corporations Commissioner, and the  
District Attorneys of Alameda, Los Angeles,  
22 Merced, Monterey, San Francisco, and San  
Mateo Counties,

23 Plaintiff,

24 v.

25 AMERIQUEST MORTGAGE COMPANY, a  
Delaware corporation; ACC CAPITAL  
26 HOLDINGS CORPORATION, a Delaware  
corporation; TOWN AND COUNTRY  
27 CREDIT COPORATION, a Delaware  
corporation; and AMC MORTGAGE  
SERVICES, INC., formerly known as Bedford  
28 Home Loans, a Delaware corporation,  
Defendants.

Case No.: **RG06260804**

**COMPLAINT FOR INJUNCTIVE  
RELIEF, RESTITUTION, AND  
RELIEF PURSUANT TO SECTIONS  
17206 AND 17536 OF THE BUSINESS  
AND PROFESSIONS CODE**

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1           6.       Whenever reference is made in this Complaint to any act of any corporate or other  
2 business Defendant, that reference shall mean that the corporation or other business did the acts  
3 alleged in this Complaint through its officers, directors, employees, agents and/or representatives  
4 while they were acting within the actual or ostensible scope of their authority.

5           7.       At all relevant times, each Defendant has committed the acts, caused others to  
6 commit the acts, ratified the commission of the acts, or permitted others to commit the acts  
7 alleged in this Complaint and has made, caused, ratified, or permitted others to make, the untrue  
8 or misleading statements alleged in the First and Second Causes of Action in this Complaint.

9 Whenever reference is made in this Complaint to any act of Defendants, such allegation shall  
10 mean that each Defendant acted individually and jointly with the other Defendants. Ameriquest,  
11 Town and Country and AMC Mortgage Services shall be referred to collectively as "the  
12 Ameriquest Parties," and the term "Defendants" wherever used in this Complaint shall mean all  
13 named defendants.

14           8.       The violations of law alleged in this Complaint were committed throughout the  
15 State of California and in the Counties of Alameda, Los Angeles, Merced, Monterey, San  
16 Francisco and San Mateo.

17                           **DEFENDANTS' BUSINESS ACTS AND PRACTICES**

18           9.       In the ordinary course of business, the Ameriquest Parties have originated and  
19 funded real estate secured loans with borrowers in the State of California. These real estate  
20 secured loans were made from or at the Ameriquest Parties' retail lending branches during the  
21 period January 1, 1999 through December 31, 2005 (the "Covered Transactions").

22           10.       The Offices of the California Attorney General, the California Department of  
23 Corporations, and the District Attorneys' Offices of Alameda, Los Angeles, Merced, Monterey,  
24 San Francisco and San Mateo Counties, as well as state attorneys general and financial regulators  
25 in other states, received and investigated complaints and conducted examinations concerning the  
26 Covered Transactions. Those complaints, investigations and examinations related to the  
27 Ameriquest Parties' conduct including, but not limited to, the following practices (collectively,  
28 "the Lending Practices"):

1           **A. Representations Regarding Loans:** The Ameriquest Parties induced  
2 consumers into obtaining loans by representing to them that the Ameriquest Parties would  
3 provide them with a low interest rate, low fee loan, and/or a loan with a fixed interest rate, but, in  
4 a "bait and switch," instead provided loans to consumers at significantly higher rates or higher  
5 fees than originally promised, and/or provided the consumers with an adjustable rather than a  
6 fixed rate loan. These statements were untrue or misleading because Ameriquest was unlikely to  
7 make the loan on the terms initially offered.

8           **B. Representations Regarding Future Refinancing:** As part of an effort to  
9 induce consumers to accept unfavorable loan terms, such as a high monthly payment or interest  
10 rate, sales representatives for the Ameriquest Parties told consumers that they could refinance in  
11 a few months and would be able to obtain more favorable terms at that time. These statements  
12 were untrue or misleading because the Ameriquest Parties were unlikely to provide a refinance  
13 under the terms represented by their sales representatives. Additionally, any consumers who did  
14 refinance would likely incur a substantial prepayment penalty, thus limiting their ability to obtain  
15 a more favorable loan.

16           **C. Loan Discount Points:** The Ameriquest Parties failed to provide timely  
17 and adequate information to consumers concerning the amount and purpose of "discount" points  
18 and fees imposed on their loans. Further, prior to February 2003, the rate reduction, if any,  
19 varied among borrowers who paid the same amount of discount points.

20           **D. Adjustable Interest Rates:** The Ameriquest Parties have misrepresented  
21 the terms of the adjustable rate provisions of their loans, including misrepresenting how the  
22 interest rate for the loan would in fact adjust. These statements were untrue or misleading  
23 because the Ameriquest Parties and their sales representatives failed to describe the true terms of  
24 the adjustable rate provision of the loans, and because the Ameriquest Parties were unlikely to  
25 provide an adjustable rate loan on the terms represented. Further, the Ameriquest Parties did not  
26 or did not adequately disclose that the adjustable rate loans include a provision specifying that  
27 the interest rate will never be lower than the initial rate on the loan.

1           **E. Consumers' Credit Ratings:** The Ameriquest Parties made  
2 misrepresentations to consumers regarding their credit ratings, including representing they had  
3 poorer credit than they in fact did, or that the Ameriquest Parties could only provide a consumers  
4 with certain loan terms because of their supposedly poor credit. These statements were untrue or  
5 misleading because in many cases, the consumers may have had better credit than Defendants  
6 represented, or been eligible for fixed rate loans, and, regardless of the consumers' credit,  
7 Defendants included adjustable rates in Ameriquest loans in order to maximize their revenue  
8 and/or profit. Additionally, Defendants induced their sales representatives to sell adjustable rate  
9 loans by paying higher commissions for the sale of an adjustable rather than a fixed a rate loan.

10           **F. Prepayment Penalties:** The Ameriquest Parties misled consumers about  
11 the presence and terms of prepayment penalties on loans offered by the Ameriquest Parties, and  
12 about whether prepayment penalties could be waived for consumers who refinanced their loans.

13           **G. Inflated Appraisals:** The Ameriquest Parties engaged in deceptive or  
14 misleading acts and practices which resulted in the Ameriquest Parties obtaining inflated  
15 appraisals that were substantially in excess of the market value of homes of consumers.

16           **H. Inflated Income:** The Ameriquest Parties engaged in acts and practices  
17 which resulted in fabricated and/or inflated income information for consumers, and/or  
18 non-existent or inflated amounts of assets for prospective borrowers on loan applications.

19           **I. Disparaging Federal Disclosures:** The Ameriquest Parties engaged in  
20 acts and practices that encouraged consumers to ignore the Truth In Lending Act (TILA, 15  
21 U.S.C. §§ 1601 *et seq.*) and Real Estate and Settlement Procedures Act (RESPA, 12 U.S.C. §§  
22 2601 *et seq.*) disclosures (including the Good Faith Estimate), misrepresented that these  
23 disclosures were not representative of the actual loan terms the consumers would receive, or  
24 otherwise disparaged the accuracy and relevance of the required federal disclosures.

25           **J. Appraisal Fees - Denied Loans:** The Ameriquest Parties routinely failed  
26 to refund appraisal fees in instances where Ameriquest denied loans and there was no failure on  
27 the part of the borrower to disclose outstanding liens and/or to provide other essential  
28 information in violation of section 22301(b) of the California Financial Code.

1           **K. Appraisal Fees - Canceled Loans:** The Ameriquet Parties failed to  
2 refund appraisal fees in instances where borrowers canceled loans during the cancellation period  
3 provided for under TILA.

4           **L. Returned Check Fees:** The Ameriquet Parties charged "non-sufficient  
5 fund" fees in excess of the maximum allowed under section 22320 of the California Financial  
6 Code.

7           **N. File Maintenance:** The Ameriquet Parties failed to maintain records  
8 required by section 22156 of the Financial Code and sections 1425 and 1435 of title 10 of the  
9 California Code of Regulations.

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11           **FIRST CAUSE OF ACTION, BROUGHT ON BEHALF OF THE PEOPLE, BY THE**  
12           **CALIFORNIA CORPORATIONS COMMISSIONER, AGAINST ALL DEFENDANTS**  
13           **FOR INJUNCTIVE RELIEF AND RESTITUTION PURSUANT TO CALIFORNIA**  
14           **FINANCIAL CODE SECTIONS 22713 AND 50324**

15           11. The People reallege and incorporate by reference all paragraphs above, as  
16 though fully set forth in this cause of action.

17           12. At all relevant times, sections 22161 and 50503(a)(2) of the California  
18 Financial Code made it unlawful to make or disseminate false, misleading, or deceptive  
19 statements regarding loans.

20           13. The Ameriquet Parties have violated and continue to violate sections  
21 22161 and 50503(a)(2) of the California Financial Code by advertising, publishing, distributing  
22 or broadcasting, or causing or permitting to be advertised, published, distributed, or broadcast,  
23 untrue or misleading statements with the intent to induce members of the public to enter into  
24 mortgage transactions. Such untrue or misleading statements include but are not limited to the  
25 statements described in paragraph 10 above.

26           14. All Defendants knew, or by the exercise of reasonable care should have  
27 known, that the statements identified in paragraph 13, above, were untrue or misleading at the  
28 time they were made.

1           15.    The Amerquest Parties violated section 22301 of the California Financial  
2 Code by failing to refund appraisal fees charged in denied loans wherein there was no failure on  
3 the part of the borrower to disclose outstanding liens and/or to provide other essential  
4 information.

5           16.    The Amerquest parties have failed to refund appraisal fees in instances  
6 where borrowers canceled loans during the cancellation period provided under TILA

7           17.    The Amerquest Parties violated section 22320 of the California Financial  
8 Code by charging excessive "non-sufficient fund" fees.

9           18.    The Amerquest Parties violated section 22156 of the California Financial  
10 Code and sections 1425 and 1435 of title 10 of the California Code of Regulations by failing to  
11 maintain books and records that would enable the Commissioner to determine if Amerquest is  
12 complying with the California Finance Lenders Law ("CFL," California Financial Code  
13 sections 22100 *et seq.*).

14  
15           **SECOND CAUSE OF ACTION, BROUGHT ON BEHALF OF THE PEOPLE BY THE**  
16           **ATTORNEY GENERAL AND DISTRICT ATTORNEYS, AGAINST ALL**  
17           **DEFENDANTS**

18           **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17500**  
19           **(UNTRUE OR MISLEADING STATEMENTS)**

20           19.    The People reallege and incorporate by reference all paragraphs above, as  
21 though fully set forth in this cause of action.

22           20.    All Defendants have violated, and continue to violate section 17500 of the  
23 Business and Professions Code by making, disseminating or causing to be made or disseminated,  
24 whether directly or indirectly, untrue or misleading statements with the intent to induce members  
25 of the public to enter into mortgage transactions, including but not limited to the statements set  
26 forth in paragraph 10, above.

27           21.    Defendants knew, or by the exercise of reasonable care should have  
28 known, that these statements were untrue or misleading at the time they were made.

1 **THIRD CAUSE OF ACTION, BROUGHT ON BEHALF OF THE PEOPLE BY THE**  
2 **ATTORNEY GENERAL AND DISTRICT ATTORNEYS, AGAINST ALL**  
3 **DEFENDANTS**

4 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17200**  
5 **(UNFAIR COMPETITION)**

6 22. The People reallege and incorporate by reference all paragraphs above, as  
7 through fully set forth in this cause of action.

8 23. Defendants have engaged in, and continue to engage in, acts or practices  
9 that violate section 17200 of the Business and Professions Code. Such acts or practices include,  
10 but are not limited to the conduct identified in paragraph 10, above, and in the First and Second  
11 Causes of Action.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff prays for judgment as follows:

14 1. Pursuant to sections 17203 and 17535 of the Business and Professions  
15 Code, for an order that Defendants and their direct and indirect subsidiaries, affiliates, officers,  
16 directors, employees, agents, related entities, successors, and assigns, and any and all other  
17 persons who act in concert or participate with Defendants, be permanently restrained and  
18 enjoined from making, disseminating, or causing to be made or disseminated any misleading,  
19 untrue and/or deceptive statements in violation of section 17500 of the Business and Professions  
20 Code or engaging in any acts of unfair competition in violation of section 17200 of the Business  
21 and Professions Code, including, but not limited to, the untrue or misleading statements and  
22 business acts and practices alleged in the Second Cause of Action to the Complaint, relating to  
23 the marketing or sale of loans and related products to borrowers and consumers;

24 2. Pursuant to sections 22713(a) and 50324(a) of the California Financial  
25 Code, for an order that Defendants and their direct and indirect subsidiaries, affiliates, officers,  
26 directors, employees, agents, related entities, successors, and assigns, and any and all other  
27 persons who act under, by, through, or on behalf of Defendants, be permanently restrained and  
28 enjoined from advertising, publishing, distributing, broadcasting, or otherwise making or causing

1 or permitting to be advertised, published, distributed, broadcast, or made, any statement or  
2 representation that is false, misleading, or deceptive, or that omits material information that is  
3 necessary to make the statements not false, misleading, or deceptive in violation of sections  
4 22161 and 50503(a)(2) of the California Financial Code, including but not limited to those  
5 statements or representations alleged in the First Cause of Action, relating to the marketing or  
6 sale of loans and related products to consumers, including the rates, terms, or conditions for  
7 making or negotiating loans;

8           3. Pursuant to section 22713(a) of the California Financial Code, for an order  
9 that Ameriquest its direct and indirect subsidiaries, affiliates, officers, directors, employees,  
10 agents, related entities, successors, and assigns, and any and all other persons who act under, by,  
11 through, or on behalf of Ameriquest, be permanently restrained and enjoined from engaging in  
12 any act in violation of sections 22156, 22301(b), and 22320 of the California Financial Code or  
13 sections 1425 and 1435 of title 10 of the California Code of Regulations, including but not  
14 limited to those acts alleged in the First Cause of Action;

15           4. Pursuant to sections 17203 and 17535 of the Business and Professions  
16 Code and sections 22713(b) and 50324(b) of the California Financial Code, for an order  
17 requiring Defendants to make restitution to borrowers;

18           5. That the Court grant relief pursuant to sections 17206 and 17535 of the  
19 Business and Professions Code; and

20           6. For an order that Plaintiff be awarded its costs of suit, including but not  
21 limited to all costs of investigation.

22 DATED: March 16, 2006

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DATED: March 16, 2006

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