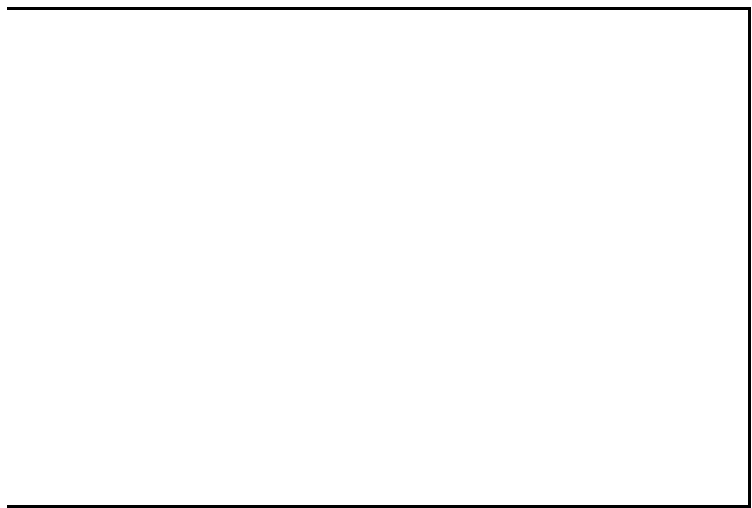


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Act”), 15 U.S.C. §§ 53(b) and 57b, and Section 410(b) of the Credit Repair Organizations Act, 15 U.S.C. § 1679h(b), to obtain temporary, preliminary, and permanent injunctive relief, rescission of contracts and restitution, disgorgement of ill-gotten gains, and other equitable relief against Defendants Tracy Ballard aka Tracy Ballard-Straughn (“Ballard”) and Successful Credit Services dba Success Credit Services (“Success”)(collectively referred to as “Defendants”) for engaging in deceptive acts or practices in connection with the advertising, marketing, promotion, offering for sale, or sale of credit repair services in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and violation of multiple sections of the Credit Repair Organizations Act, 15 U.S.C. §§ 1679-1679j. On October 17, 2008 the Court issued the *ex parte* temporary restraining order and issued an order to show cause why a preliminary injunction ought be granted. Subsequently the

1 2. Defendants were properly served with the Complaint and Summons
2 in this matter.

3 3. The Complaint states a claim upon which relief may be granted
4 against Defendants under Sections 5(b), 13, and 19 of the FTC Act, 15 U.S.C.
5 §§ 45, 53(b), and 57b, and Section 410(b) of the Credit Repair Organizations Act
6 15 U.S.C. § 1679h(b).

7 4. Defendants are a “credit repair organization,” as that term is defined
8 in Section 403(3) of the Credit Repair Organizations Act, 15 U.S.C. § 1679a(3).

9 5. Venue in this district is proper under 28 U.S.C. § 1391(b) and 15
10 U.S.C. § 53(b).

11 6. The activities of Defendants are “in or affecting commerce” as
12 “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

13 7. Defendant BALLARD consented to the entry of the PI against her
14 and against Defendant SUCCESS and was properly served with the PI in this
15 matter.

16 8. In their Answer to the Complaint, Defendants admit that they charged
17 or received money or other valuable consideration for the performance of credit
18 repair services that they had agreed to perform before the services were fully
19 performed, in violation of Section 404(b) of the Credit Repair Organizations Act,
20 15 U.S.C. § 1679b(b).

21 9. Defendants have read and fully understand the Complaint against
22 them and the provisions of this Order, and they enter into this Order freely and
23 without coercion, and acknowledge that they understand the provisions of this
24 Order and are prepared to abide by its terms.

25 10. Defendants waive all rights to seek judicial review or otherwise
26 challenge or contest the validity of this Order.

27 11. Defendants waive any claim that they may hold against the
28 Commission, its employees, representatives or agents.

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12. Defendants waive any claim that they may hold under the Equal Access to Justice Act, 28 U.S.C. § 2412, ~~as amended~~ *amended by* Pub. L. 104-121, 110 Stat. 847, 863-64 (1996) concerning the prosecution of this action to the date of this Order, and any rights to attorneys' fees that may arise under said provision of law.

13. All parties shall bear their own costs and attorneys' fees.

14. This Order is remedial in nature and shall not be construed as the payment of a fine, penalty, punitive assessment, or forfeiture.

15. This Order is in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law.

16. Entry of this Order is in the public interest.

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whether in paper, electronic, or other form that is a consumer report or is derived from a consumer report. Consumer information also means a compilation of such records.

D. "Credit repair organization" shall have the meaning ascribed to that term in Section 403(3) of the Credit Repair Organizations Act, 15 U.S.C. § 1679a(3). A complete copy of the Credit Repair Organizations Act, 15 U.S.C. § 1679-1679j, is attached as Attachment A.

E. "Credit repair service" means any service, in return for payment of money or other valuable consideration, the express or implied purpose of: (1) improving any consumer's credit record, credit history, or credit rating; or (2) providing advice or assistance to any consumer with regard to any activity or

1 the term.

2 K. "Person" means a natural person, an organization or other legal
3 entity, including a corporation, partnership, sole proprietorship, limited liability
4 company, association, cooperative, or any other group or combination acting as an
5 entity.

6 L. "Plaintiff" means the Federal Trade Commission.

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8 ORDER

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I.

10

PROHIBITED BUSINESS ACTIVITIES

11

PURSUANT TO THE FEDERAL TRADE COMMISSION ACT

12

IT IS HEREBY ORDERED that, in connection with the advertising,
13 marketing, promotion, offering for sale, or sale of any good or service, including,
14 but not limited to, any credit repair service, Defendants, and their officers, agents,
15 servants, employees, attorneys, and those persons in active concert or participation
16 with any of them who receive actual notice of this Order by personal service or
17 otherwise, whether acting directly or through any entity, corporation, subsidiary,
18 division, affiliate or other device, are hereby permanently restrained and enjoined
19 from misrepresenting, or assisting others in misrepresenting, either orally or in
20 writing, expressly or by implication, any material fact, including, but not limited
21 to:

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A. That Defendants can improve substantially consumers' credit reports
23 or profiles by permanently removing negative information from
24 consumers' credit reports, even when such information is accurate
25 and not obsolete;

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B. Their ability to otherwise improve or otherwise affect a consumer's
27 credit report or profile or ability to obtain credit;

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C. The total cost to purchase, or prior use the goods or services;

- 1 D. Any material restrictions, limitations, or conditions to purchase,
- 2 receive, or use the goods or services;
- 3 E. Any material aspect of the nature or terms of a refund, cancellation,
- 4 exchange, or repurchase policy for the goods or services; or
- 5 F. Any other material aspect of the performance, efficacy, nature, or
- 6 central characteristics of the goods or services.

8 II.

9 PROHIBITED BUSINESS ACTIVITIES

10 PURSUANT TO THE CREDIT REPAIR ORGANIZATIONS ACT

11 IT IS FURTHER ORDERED that, in connection with the advertising,
 12 marketing, promotion, offering for sale, or sale of any credit repair service to
 13 consumers, Defendants, and their officers, agents, servants, employees, attorneys,
 14 and those persons in active concert or participation with any of them who receive
 15 actual notice of this Order by personal service or otherwise, whether acting
 16 directly or through any entity, corporation, subsidiary, division, affiliate or other
 17 device, are hereby permanently restrained and enjoined from violating, or
 18 assisting others in violating, the Credit Repair Organizations Act, 15 U.S.C.
 19 1679-1679j, including, but not limited to:

- 20 A. By making or using untrue or misleading representations to induce
- 21 consumers to purchase their services, including, but not limited to,
- 22 misrepresenting that a credit repair organization can improve
- 23 substantially consumers' credit reports or profiles by permanently
- 24 removing negative information from consumers' credit reports, even
- 25 where such information is accurate and not obsolete, in violation of
- 26 Section 404(a)(3), 15 U.S.C. § 1679b(a)(3); or
- 27 B. By charging or receiving money or other valuable consideration for
- 28 the performance of any credit repair services, before such service was

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- assessment, or forfeiture;
- C. In the event of any default on Defendants' obligation to make payment under this Section, interest, computed pursuant to 28 U.S.C. § 1961, as amended, shall accrue from the date of default to the date of payment, and shall immediately become due and payable;
- D. Defendants relinquish all dominion, control, and title to the funds paid to the fullest extent permitted by law. Defendants shall make no claim to or demand return of the funds, directly or indirectly, through counsel or otherwise;
- E. Defendants agree that the facts alleged in the Complaint filed in this action shall be taken as true without further proof in any bankruptcy case or subsequent civil litigation pursued by the Commission to enforce its rights to any payment or money judgment pursuant to this Order, including, but not limited to, a nondischargeability complaint in any bankruptcy case. Defendants further stipulate and agree that the facts alleged in the Complaint establish all elements necessary to sustain an action pursuant to, and that this Order shall have collateral estoppel effect for purposes of, Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A);
- F. In accordance with 31 U.S.C. § 7701, Defendants are hereby required, unless they already have done so, to furnish to the Commission with taxpayer identifying numbers (social security numbers or employer identification numbers), which shall be used for purposes of collecting and reporting on any delinquent amount arising out of their relationship with the government. Defendant BALLARD is further required, unless she already has done so, to provide the Commission with clear, legible and full-size photocopies

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response to the Commission’s Request for Production of Documents, all of which the Commission relied upon in negotiating and agreeing to the terms of this Order.

B. If, upon motion by the Commission to the Court, the Court finds that any Defendant, in any of the above referenced materials, failed to disclose any asset, materially misrepresented the value of any asset, or made any other material misrepresentation or omission, monetary judgment will be entered against such Defendant in favor of the FTC, in the amount of \$8,325,493.00 (EIGHT MILLION THREE HUNDRED TWENTY-FIVE THOUSAND FOUR HUNDRED AND NINETY THREE DOLLARS), all of which will become immediately due and payable to any payments already made.

Provided, however, that in all other respects, this Order shall remain in full force and effect, unless otherwise ordered by the Court;

C. Notwithstanding any other provision of this Order, Defendants agree that in any subsequent proceedings to enforce payment, including but not limited to a non-dischargeability complaint filed in a bankruptcy proceeding, each Defendant waives any right to contest any of the allegations set forth in the Complaint filed in this matter or the \$8,325,493.00 (EIGHT MILLION THREE HUNDRED TWENTY-FIVE THOUSAND FOUR HUNDRED AND NINETY THREE DOLLARS) judgment referenced above; and

D. Proceedings instituted under this Section arrj T* (iand effect, uncourt, ,

VII.

COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of (i) monitoring and investigating compliance with any provision of this Order, and (ii) investigating the accuracy of any Defendants' financial statements upon which the Commission's agreement to the Order is expressly premised:

- A. Within five (5) business days of receipt of written notice from a representative of the Commission, Defendants each shall submit additional written reports, which are true and accurate and sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and provide entry during normal business hours to any business location in each Defendant's possession or direct or indirect control to inspect the business operation;
- B. The Commission is authorized to use all other lawful means, including but not limited to:
 - 1. obtaining discovery from any person, without further leave of court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, 45, and 69;
 - 2. posing as consumers and suppliers to Defendants, their employees, or any other entity managed or controlled in whole or in part by any Defendant, without the necessity of identification or prior notice; and
- C. Defendants each shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to any conduct subject to this Order. The person interviewed may have counsel present.

1 *Provided, however,* that nothing in this Order shall limit the Commission's
2 lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act,
3 15 U.S.C. §§ 49, 57b-1, to obtain any documentary material, tangible things,
4 testimony, or information relevant to unfair or deceptive acts or practices in or
5 affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

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VIII.

COMPLIANCE REPORTING

IT IS FURTHER ORDERED that, in order that compliance with the provisions of this Order may be monitored:

- A. For a period of four (4) years from the date of entry of this Order,
 - 1. The Individual Defendant shall notify the Commission of the following:
 - a. any changes in such Defendant's residence, mailing addresses, and telephone numbers, within fifteen (15) days of the date of such change;
 - b. any changes in such Defendant's employment status (including self-employment), and any change in such Defendant's ownership in any business entity, within fifteen (15) days of the date of such change. Such notice shall include the name and address of each business that

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2. Defendants shall notify the Commission of any changes in structure of any Corporate Defendant or any business entity that any Defendant directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under this Order, including but not limited to: incorporation or other organization; a dissolution, assignment, sale, merger, or other action; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order, a change in the business name or address, at least thirty (30) days prior to such change, *provided that*, with respect to any proposed change in the business entity about which a Defendant learns less than thirty (30) days prior to the date such action is to take place, such Defendant shall notify the Commission as soon as is practicable after obtaining such knowledge.

B. One hundred eighty (180) days after the date of entry of this Order, and annually thereafter for a period of four (4) years, Defendants each shall provide a written report to the Commission, which is true and accurate and sworn to under penalty of perjury, setting forth in detail the manner and form in which they have complied and are complying with this Order. This report shall include, but not be limited to:

1. For the Individual Defendant:
 - a. Defendant's then-current residence address, mailing addresses, and telephone numbers;
 - b. Defendant's then-current employment status (including self-employment), including the name, addresses, and telephone numbers of each business that Defendant is

1 affiliated with, employed by, or performs services for; a
2 detailed description of the nature of the business; and a
3 detailed description of Defendant's duties and
4 responsibilities in connection with the business or
5 employment; and

6 c. any other changes required to be reported under
7 Subsection A of this Section.

8 2. For all Defendants:

9 a. a copy of each acknowledgment of receipt of this Order,
10 obtained pursuant to Section X titled "Distribution of
11 Order;"

12 b. any other changes required to be reported under
13 Subsection A of this Section;

14 C. Each Defendant shall notify the Commission of the filing of a
15 bankruptcy petition by such Defendant within fifteen (15) days of
16 filing.

17 D. For the purposes of this Order, Defendants shall, unless otherwise
18 directed by the Commission's authorized representatives, send by
19 overnight courier all reports and notifications required by this Order
20 to the Commission to the following address:

21 Associate Director for Enforcement
22 Federal Trade Commission
23 600 Pennsylvania Avenue, N.W., Room NJ-2122
24 Washington, D.C. 20580
RE: *FTC v. Successful Credit Services et al*
CV08-6829 ODW

25 *Provided* that, in lieu of overnight courier, Defendants may send such
26 reports or notifications by first-class mail, but only if Defendants
27 contemporaneously send an electronic version of such report or notification to the
28 Commission at: DEBrief@ftc.gov .

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E. For purposes of the compliance reporting and monitoring required by this Order, the Commission is authorized to communicate directly

1 mail solicitations, contracts sent to consumers, or other marketing
2 materials; and

3 F. All records and documents necessary to demonstrate full compliance
4 with each provision of this Order, including but not limited to, copies
5 of acknowledgments of receipt of this Order required by the Sections
6 titled "Distribution of Order" and "Acknowledgment of Receipt of
7 Order" and all reports submitted to the FTC pursuant to the Section
8 titled "Compliance Reporting."

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X.

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DISTRIBUTION OF ORDER

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IT IS FURTHER ORDERED that, for a period of five (5) years from the
date of entry of this Order, Defendant must deliver copies of this Order,

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including Attachments A and B, as directed below:

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A. Corporate Defendant: Each Corporate Defendant must deliver a copy
of this Order to (1) all of its principals, officers, directors, and
managers; (2) all of its employees, agents, and representatives who
engage in conduct related to the subject matter of the Order; and (3)
any business entity resulting from any change in structure set forth in
Subsection A.2 of the Section titled "Compliance Reporting." For

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Defendant has a majority ownership interest, such Defendant must deliver a copy of this Order to (1) all principals, officers, directors, and managers of that business; (2) all employees, agents, and representatives of that business who engage in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled "Compliance Reporting." For current personnel, delivery shall be within five (5) days of service of this Order upon such Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities. For any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled "Compliance Reporting," delivery shall be at least ten (10) days prior to the change in structure.

C. Individual Defendant as employee or non-control person: For any business where an Individual Defendant is not a controlling person of a business but otherwise engages in conduct related to the subject matter of this Order, such Defendant must deliver a copy of this Order to all principals and managers of such business before engaging in such conduct.

D. Defendants must secure a signed and dated statement acknowledging receipt of the Order, within thirty (30) days of delivery, from all persons receiving a copy of the Order pursuant to this Section.

XI.

ACKNOWLEDGMENT OF RECEIPT OF ORDER

IT IS FURTHER ORDERED that each Defendant, within five (5) business days of receipt of this Order entered by the Court, must submit to the Commission a truthful sworn statement acknowledging receipt of this Order.

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XII.

DISSOLUTION OF ASSET FREEZE

IT IS FURTHER ORDERED that the freeze on the Assets of Defendants, imposed by the Stipulated Preliminary Injunction, shall immediately be lifted. A financial institution shall be entitled to ~~you~~ upon a letter from Plaintiff stating that the freeze on the Assets of Defendants has been lifted.

XIII.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

IT IS SO ORDERED.

DATED this 17th day of September, 2009.



THE HONORABLE OTIS D. WRIGHT
UNITED STATES DISTRICT JUDGE