

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

Case No. 1:09CV02712

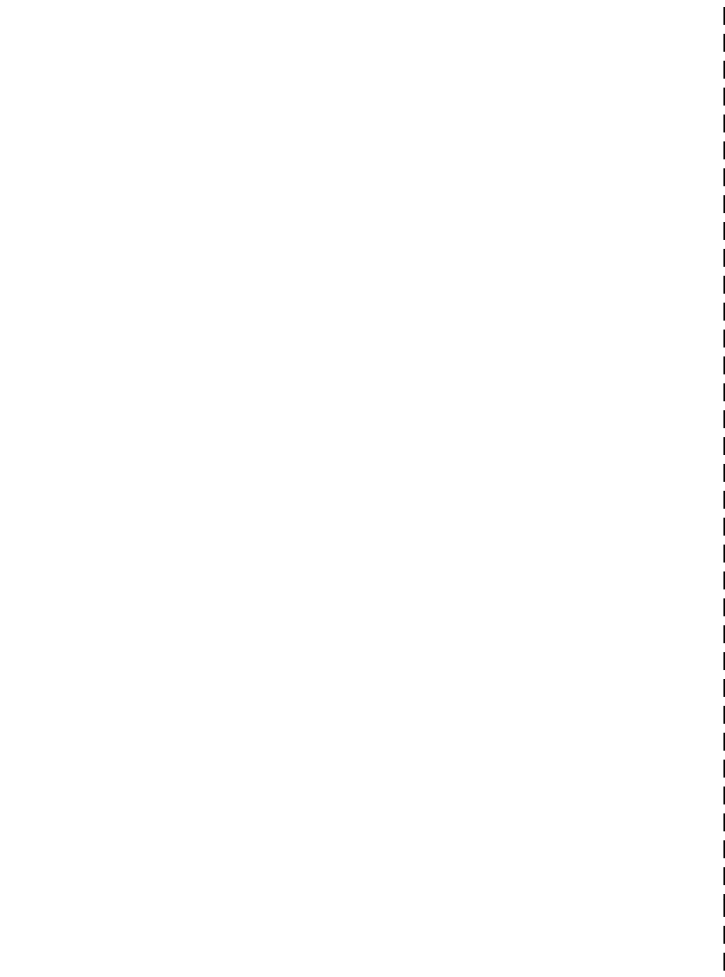
THE DEBT ADVOCACY CENTER, LLC,
a limited liability company,

SMITH, GROMANN & DAVIDSON, P.A.,

**CREDITLAWGROUP, an Interstate
Partnership of Professional Associations,** a
Florida general partnership formerly known as
Smith & Gromann, **an Interstate Partnership
of Professional Associations and doing
business as Smith & Gromann, P.A.,**

CREDIT SERVICES ALLIANCE, INC.,
a corporation

EDWARD J. DAVIDSON,
individually and as Chief Executive Officer of
The Debt Advocacy Center, LL



DEFENDANTS

6. Defendant The Debt Advocacy Center, LLC (DAC), is a Delaware limited liability company with its principal place of business located at 614 W. Superior Ave., Suite 815, Cleveland, Ohio 44113. It has also used the address 14000 Military Trail, Suite 200 Delray Beach, Florida 33484. Defendant DAC transacts or has transacted business in this District and throughout the United States.

7. Defendant Smith, Gromam, & Davidson, P.A. (SG&D), purports to be a "partnership of professional associations." On information and belief, SG&D has no formal legal status in any state. Its principal place of business is located at 614 W. Superior Ave., Suite 815, Cleveland, Ohio 44113. It also uses the address 14000 Military Trail, Suite 200 Delray Beach, Florida 33484. Defendant SG&D transacts or has transacted business in this District and throughout the United States.

8. Defendant Credit Law Group (CLG) is an Interstate Partnership of Professional Associations, formerly known as Smith & Gromam, an Interstate Partnership of Professional Associations, doing business as Smith & Gromam, P.A. Defendant CLG is a Florida general partnership owned, directly or indirectly, by Defendants John W. Smith and Glenn E. Gromann. Its principal place of business is at 1095 Boken Sound Parkway, Suite 201, Boca Raton, Florida 33487. Defendant CLG sold loan modification and foreclosure relief services, including but not limited to loan modifications, forensic audits, short sales and foreclosure defense, to homeowners throughout the United States. Defendant CLG transacts or has transacted business in this District and throughout the United States. Defendant CLG filed for bankruptcy in the United States Bankruptcy Court for the Southern District of Florida on April 23, 2010 (Case No.

10-20824 - EPK). The instant action against CLG is not stayed by 11 U.S.C

the acts and practices set forth in this Complaint. Defendant McCormick, in connection with the matters alleged herein, transacts or has transacted business in this District and throughout the United States.

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directed, controlled, had the authority to control, or participated in the acts and practices of CLG, including the acts and practices set forth in this Complaint. Defendant Butler, in connection with the matters alleged herein, transacts and has transacted business in this District and throughout the United States.

COMMERCE

17. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

AVAILABILITY OF FREE LOAN MODIFICATION AND FORECLOSURE RELIEF SERVICES

18. Numerous mortgage lenders and servicers have instituted free programs to assist financially distressed homeowners by offering them the opportunity to modify loans that have become unaffordable. Many of these "loan modification" programs have expanded as lenders have increased participation in the federal government's "Making Home Affordable" program, a plan to stabilize our housing market and help up to 7 to 9 million Americans reduce their monthly mortgage payments to more affordable levels. The Making Home Affordable program includes the Home Affordable Modification Program, in which the federal government has committed \$75 billion to keep up to 3 to 4 million Americans in their homes by preventing avoidable foreclosures. Moreover, numerous major mortgage lenders and servicers, non-profit and community-based organizations, the federal government, and the news media have helped publicize the availability of these free mortgage loan modification programs. Lenders often notify consumers of the availability of these programs, or of consumers' eligibility, through their "loss mitigation" departments. Defendants divert consumers from these free programs and

induce them to spend thousands of dollar o

b. At the Debt Advocacy Center we can help you stop foreclosure and keep your home, with a much lower payment and, often, a fixed interest rate.

c. . . . we have penetrated the Senior levels of most servicers and have negotiators for the lender, generally unavailable to the public.

d. How certain are we? For our negotiation service, if we do not obtain the payment you have agreed you can afford we pay you a penalty of a minimum of \$1500 or more.

e. If you are facing foreclosure, or don't know how you're going to make future payments, then it's time to act now. Don't miss out on this chance to get a modified payment, without needing perfect credit to refinance. This is not a refinance, it's a loan modification and we're seeing some of the lowest interest rates ever. The lenders are tired of losing money and, with a properly underwritten plan proposed to the right negotiator, they're making unheard of deals on loan modifications. We have special arrangements with 90% of the top lenders, so if you can afford a new lower payment, we can get you approved for our program today! These options may not last forever, so please act while help is still available. Other qualifications do apply, so please use the form on the left to request your free evaluation and make sure you qualify today.

f. With a 90% success rate, we're constantly receiving testimonial letters. We always appreciate hearing from you and hope to receive 1000's more!

23. The DAC Defendants' websites also contained numerous purported customer testimonials touting Defendants' ability to arrange loan modifications and/or stop foreclosures.

As an example:

First of all, I want to say that The Debt Advocacy Center definitely lives up to its name and guarantee. You are truly an advocate on behalf of the consumer. The DAC staff is understanding and compassionate to your dilemma. Unlike other companies DAC works with you and for you. The negotiator assigned to my case hit the ground running from day one. My family home was in jeopardy of being foreclosed with a date set. She contacted me informing me that she was pleased that my lender was Saxon whom she had previously worked with. That information and her reassurance lifted a heavy burden off my shoulders and gave me hope and relief. The professionalism, efficiency, promptness and communication which she exhibited were remarkable. When I received the call with the resolution of my modification, she asked me was I sitting down. Well, I was until I heard the results. Then I jumped up for joy thanking the LORD. The words: Thank You does not justify the true feeling of my gratitude, but: "Thank you, Thank you, THANK YOU!!!" This was truly money well spent!

24. The Internet websites invited consumers to call the DAC Defendants' toll-free number for more information. Consumers who called the toll-free number or provided contact information in response to the DAC Defendants' websites spoke with "consultants." In numerous instances, the consultants stated that the DAC Defendants had a success rate of over 90% in obtaining satisfactory loan modifications. In numerous instances, the consultants stated that the DAC Defendants had special relationships with mortgage lenders and/or services that enabled them to arrange loan modifications where others could not. In numerous instances, the DAC Defendants' consultants stated that if they were unable to obtain a loan modification for the consumer, the consumer would receive their money back and/or receive a penalty payment of at least \$1500.

25. In numerous instances, the DAC Defendants' consultants told consumers that a lawyer would be working on their case and that they were a reputable firm whose owner had ties to prominent politicians and government officials.

26. In numerous instances, the DAC Defendants' consultants obtained consumers' bank account or credit card information by telling consumers that these accounts or credit cards would not be debited or charged, but that the information was needed before a contract could be sent for review. Then, in numerous instances, the DAC Defendants debited the consumer's account for its fee even though it had no contract or authorization.

27. Those consumers who did sign the DAC Defendants' contracts paid an up-front fee of \$1500. Some paid an additional fee of \$1500. In numerous instances, the DAC Defendants told consumers who engaged their services to stop making their mortgage payments.

28. In numerous instances the DAC Defendants failed to obtain the promised mortgage loan modifications that would make consumers' mortgage payments more affordable. In numerous instances the DAC Defendants provided consumers a do-it-yourself kit containing "educational materials" about how consumers should act when the consumers attempt to negotiate a loan modification with their lender. These "educational materials" also provided the consumer a fill-in-the-blanks form: "ANSWER TO COMPLAINT FOR FORECLOSURE."

29. When consumers complained and asked for their money back as the DAC Defendants guaranteed, in numerous instances the DAC Defendants refused to refund their (Defendants) \$20,000.00

your lender has violated these consumer disclosure laws you may be entitled to money damages. This information can be extremely valuable when negotiating a loan modification or short sale We have found that between 80-90% of all loans we have audited have some form of rights violations. You need to know whether or not you were a victim - don't become a statistic.

The website included a toll free "800" number for consumers to contact for more information.

34. In addition, from locations in Florida, telemarketers of the CLG Defendants, under the direct supervision of Defendants Jackson and Butler, called consumers whose names were listed on Foreclosure.com or whose information was obtained through other means. The CLG Defendants also sent a mailing offering its loan modification and foreclosure relief services to consumers and suggested that consumers contact them by calling a toll-free "800" number. The CLG Defendants held "informational" seminars for various organizations where it also marketed its services. The CLG Defendants also solicited and paid for referrals from third parties, such as AmeriFirst Financial. Defendants Gese, Gromann and Smith directed the activities of Defendants Jackson and Butler and those who worked under them.

35. The CLG Defendants' sales representatives were paid a salary and a commission for successful sales. As a law firm, CLG could not pay commissions for sales, so the commissions were paid by checks from Defendant CSA.

36. The CLG Defendants sold their services to several hundred homeowners over at least a six month period. Although these homeowners signed an agreement for legal services presented to them by the CLG Defendants, few, if any of them ever met with an attorney.

37. The CLG Defendants' sales representatives told consumers who wanted to get their loans modified that they first needed to purchase a forensic loan audit. A forensic loan audit involves the examination of a homeowner's loan documents for possible violations of

applicable statutes and regulations. The CLG Defendants' representative told homeowners that the audit was likely to find ~~it~~

VIOLATIONS OF SECTION 5 OF THE FTC ACT

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Defendants have represented, directly or indirectly, expressly or by implication, that they have
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without first obtaining the consumer's agreement to purchase and pay for the DAC Defendants' services.

53. The DAC Defendants' actions cause or are likely to cause substantial injury to consumers that consumers cannot reasonably avoid themselves and that is not outweighed by countervailing benefits to consumers or competition.

54. Therefore, the DAC Defendants' practice as described in Paragraph 52 above constitutes an unfair actor practice in violation of Section 5 of the FTC Act, 15 U.S.C. §§ 45(a) and 45(n).

COUNT V

55. In numerous instances, in connection with the advertising, marketing, promotion, offering for sale, ~~0.0000 TD (n)Tj 5.20000 TD 3.7200 0.0000 TD (s)Tj 7.5000 0.0000 TD (a)Tj 2.2200 0.0000~~

TELEMARKETING SALES RULE

58. Congress directed the FTC to prescribe rules prohibiting abusive and deceptive telemarketing acts or practices pursuant to the Telemarketing Act, 15 U.S.C. § 6101et seq., in 1994. The FTC adopted the original Telemarketing Sales Rule in 1995, extensively amended it in 2003, and amended certain provisions thereafter. 16 C.F.R. Part 310.

59. The TSR exempts from coverage

VIOLATIONS OF THE TELEMARKETING SALES RULE

COUNT VI

68. In numerous instances, in the course of telemarketing mortgage loan modification or foreclosure rescue services, the CLG Defendants have misrepresented, directly or by implication, a material aspect of the performance, efficacy, nature, or central characteristic of such services, including, in numerous instances, that as a result of forensic loan audits

B. Enter a permanent injunction to prevent future violations of the FTC Act and the TSR by Defendants;

C. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act and the TSR, including, but not limited to, rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies; and

D. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Date: May 14, 2010

Respectfully submitted,

WILLARD K. TOM, General Counsel
Federal Trade Commission, Washington, D.C.

JON MILLER STEIGER
Director, East Central Region
Federal Trade Commission

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CERTIFICATE OF SERVICE

A copy of the foregoing FIRST AMENDED COMPLAINT FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF was served upon all counsel of record via the Court's electronic filing system this 14th day of May, 2010.

s/Michael B. Rose

MICHAEL B. ROSE (Pennsylvania Bar #52954)
Attorney for Plaintiff Federal Trade Commission