

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 09-cv-61840 Seitz/O'Sullivan

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

1st GUARANTY MORTGAGE CORP., *et al.*,

Defendants.

FINAL JUDGMENT AND ORDER FOR

the FTC Act, 15 U.S.C. § 45(a), the CROA, 15 U.S.C. §§ 1679-1679j, and the FTC's Telemarketing Sales Rule ("TSR"), 16 C.F.R. Part 310.

Having considered the Complaint, Plaintiff's Motion for Summary Judgment, the Memorandum in support thereof, Plaintiff's Statement of Uncontroverted Material Facts, Plaintiff's Summary Judgment Exhibits, the records of this case, and any opposition thereto, The plaintiff is entitled to summary judgment against the defendants, Stephen Lalonde and Michael Petroski. The plaintiff is not entitled to summary judgment against the defendant, Amy Lalonde. The Court enters this Final Judgment and Order against Defendant Michael Petroski ("Defendant").

It is therefore

5. No genuine issue of material fact exists that, in connection with the allegations of Counts 1-4, and 6 of Plaintiff's Complaint, Defendant made untrue or misleading representations in violation of the CROA; charged or received money or other valuable consideration for the performance of credit repair services before such services were fully performed, in violation of the CROA; requested or received an advance payment for a loan or other extension of credit, which he guaranteed or represented he could obtain with a high likelihood of success, in violation of the TSR; and made false and misleading, material representations to consumers, in violation of the FTC Act. The Plaintiff is therefore entitled to summary judgment as a matter of law.

6. Defendant formulated, directed, controlled, had the authority to control, or participated in the deceptive practices alleged in Counts 1-4, and 6 of the Complaint, and had knowledge of the deceptive practices.

7. Consumers have suffered and will continue to suffer substantial injury as a result of Defendant's violations of the FTC Act, the CROA, and the TSR. In addition, Defendant has been unjustly enriched as a result of his unlawful acts or practices. Absent injunctive relief by this Court, Defendant is likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

8. The equities weigh in favor of entering this Order, and entry of this Order is in the public interest.

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

ORDER

Definitions

examine a consumer's mortgage or home loan application; or (N) obtain, arrange, or attempt to obtain or arrange any extension of the period within which the renter of property sold at foreclosure may continue to occupy the property. The foregoing shall include any manner of claimed assistance, including, but not limited to, debt, credit, budget, or financial counseling; receiving money for the purpose of distributing it to creditors; contacting creditors or servicers on behalf of the consumer; and giving advice of any kind with respect to filing for bankruptcy.

9. “**Servicer**” means any beneficiary, mortgagee, trustee, loan servicer, loan holder, or other entity that performs loan or credit account administration or processing services and/or its authorized agents.

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- B. assisting others engaged in the advertising, marketing, promoting, offering for sale, or selling any mortgage; credit repair service; credit-related product, program, or service; or mortgage loan modification or foreclosure relief service.

II.

PERMANENT BAN ON TELEMARKETING

IT IS FURTHER ORDERED that Defendant is permanently restrained and enjoined from engaging or participating in telemarketing, directly or through any intermediary, including, but not limited to, by consulting, brokering, planning, investing, outsourcing, or advertising.

III.

INJUNCTION AGAINST MISREPRESENTATIONS

IT IS FURTHER ORDERED that Defendant and his agents, servants, employees, and those persons in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise, in connection with the advertising, marketing, promoting, offering for sale, or selling of any goods or services are hereby permanently restrained and enjoined from making or assisting others in making, expressly or by implication, any misrepresentation, including, but not limited to, misrepresenting:

- A. The benefit of any good or service;
- B. The cost of any good or service;
- C. Past success in providing goods or services;
- D. The amount of time it will take or is likely to take to obtain goods or services;
- E. Any aspect of the terms of a refund policy or service contract; or
- F. Any other material fact.

IV.

MONETARY JUDGMENT AND REDRESS

IT IS FURTHER ORDERED that:

- A. Judgment is entered in the amount of Five Hundred Thirty-Three Thousand One

- B. The judgment amount, less the sum of payments made pursuant to this Section and by any defendant with whom Defendant is jointly and severally liable, shall become immediately due and payable by Defendant, and interest computed at the rate prescribed under 28 U.S.C. § 1961, as amended, shall immediately begin to accrue on the unpaid balance;
- C. Within ten (10) days of being served with a copy of this Order, any person or entity holding any of Defendant's assets shall transfer those assets to the FTC;
- D. All funds paid shall be deposited into a fund administered by the Commission or its agent to be used for equitable relief, including, but not limited to, restitution and any attendant expenses for the administration of such equitable relief, *provided, however,* that any person or entity having a perfected judgment lien against any funds collected toward payment of the monetary judgment in this Order shall not be precluded from asserting its rights to such funds as permitted by law. If the Commission determines, in its sole discretion, that direct redress of

relief is solely remedial in nature and is not a fine, penalty, punitive assessment, or forfeiture;

- E. Defendant shall cooperate fully with the Commission and its agents in all attempts to collect the amounts due pursuant to this Section, including, upon request, providing the Commission with his federal and state tax returns for the preceding two (2) years, and completing new financial disclosure forms fully and accurately within ten (10) business days of receiving a request from the Commission to do so. Defendant further authorizes the Commission to verify all information provided on his financial disclosure forms with all appropriate third parties including, but not limited to, financial institutions;
- F. Upon request, Defendant is hereby required, in accordance with 31 U.S. § 7701, to furnish to the FTC his tax identification numbers, which shall be used for purposes of collecting and reporting on any delinquent amount arising out of this Order; and
- G. Pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(1), any consumer reporting agency may furnish a consumer report concerning Defendant to the FTC, which shall be used for purposes of collecting and reporting on any delinquent amount arising out of this Order.

V.

LIFTING OF ASSET FREEZE

IT IS FURTHER ORDERED that the freeze of Defendant's assets, pursuant to the Stipulated Preliminary Injunction entered on May 11, 2010, shall be lifted for the sole purpose of

effectuating the transfer of assets in partial satisfaction of the monetary judgment as provided in Section IV of this Order, and shall be of no further force or effect after transfer is completed.

**VI.
PROHIBITION ON RELEASE OF CUSTOMER INFORMATION
OR CUSTOMER LISTS**

IT IS FURTHER ORDERED that Defendant, and his agents, servants, employees, and all other persons in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise, are permanently restrained and enjoined from:

- A. disclosing, using, or benefitting from customer information, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), of any person which any Defendant obtained prior to entry of this Order in connection with any mortgage, credit repair service, credit-related product, program, or service, or mortgage loan modification or foreclosure relief service; and
- B. failing to dispose of such customer information in all forms in their possession, custody, or control within thirty (30) days after entry of this Order. Disposal shall be by means that protect against unauthorized access to the customer information, such a

VII.

COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring and investigating compliance with any provision of this Order:

- A. Within ten (10) days of receipt of written notice from a representative of the Commission, Defendant shall submit additional written reports, which are true and accurate and sworn to under penalty of perjury; produce documents for inspection and

responsibilities in connection with the business or employment;

and

- c. Any changes in Defendant's name or use of any alia,000 TD(n De)Tj 22(ha)Tj sp

1. Defendant's then-current residence address, mailing addresses, and telephone numbers;
 2. Defendant's then-current employment status (including self-employment), including the name, addresses, and telephone numbers of each business that Defendant is affiliated with, employed by, or performs services for; a detailed description of the nature of the business; and a detailed description of Defendant's duties and responsibilities in connection with the business or employment;
 3. A copy of each acknowledgment of receipt of this Order, obtained pursuant to the Section titled "Distribution of Order;" and
 4. Any other changes required to be reported under Subsection A of this Section.
- C. Defendant shall notify the Commission of the filing of a bankruptcy petition by Defendant within fifteen (15) days of filing.
- D. For the purposes of this Order, Defendant shall, unless otherwise directed by the Commission's authorized representatives, send by overnight courier (not the U.S. Postal Service) all reports and notifications to the Commission that are required by this Order to:
- a. Associate Director for Enforcement
 - b. Bureau of

purchased, to the extent such information is obtained in the ordinary course of

business;

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D. Complaints and refund requests (whether received dir

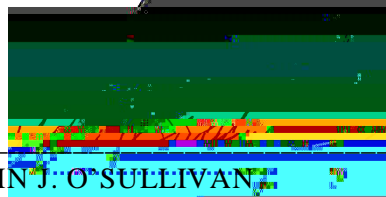
personnel, delivery shall be within five (5) days of servi

XII.

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, this 30th day of March, 2011.



JOHN J. O'SULLIVAN
UNITED STATES MAGISTRATE JUDGE