

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS

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FEDERAL TRADE COMMISSION,	)	)
	)	)
Plaintiff,	)	)
	)	)
v.	)	Civil Action No. 3:11-CV-2059-N
	)	)
DEBT RELIEF USA, INC.,	)	)
a corporation,	)	)
	)	)
KELLY REILLY, Individually and as an	)	)
officer of the corporation,	)	)
	)	)
ALVIN BELL, Individually and as an	)	)
officer of the corporation,	)	)
	)	)
JAMES WOJCIK, Individually and as an	)	)
officer of the corporation, and	)	)
	)	)
VALERIE LEATH, Individually and as a	)	)
manager of the corporation,	)	)
	)	)
Defendants.	)	)
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STIPULATED FINAL JUDGMENT AND ORDER FOR  
PERMANENT INJUNCTION AND MONETARY RELIEF  
AS TO DEFENDANT JAMES WOJCIK

Plaintiff Federal Trade Commission filed a Complaint for Permanent Injunction and Other Equitable Relief against Defendants Debt Relief USA, Inc., Kelly Reilly, Alvin Bell, James Wojcik, and Valerie Leath (“Defendants”). The Complaint alleges that Defendants engaged in unfair or deceptive acts or practices in violation of Section 5(a) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 45(a). Defendant James Wojcik waived service of the Summons and Complaint.

Plaintiff Federal Trade Commission and Defendant Wojcik have been represented by the

7. Defendant Wojcik waives all rights to seek appellate review or otherwise challenge or contest the validity of this Order.

8. Defendant Wojcik waives all claims that may arise under the Equal Access to Justice Act, 20 U.S.C. § 2412, concerning the prosecution of this action to date. Defendant Wojcik also waives any claim against Plaintiff and its employees, representatives, or agents.

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

10. Each party shall bear its own costs and attorneys' fees incurred in this action.

#### DEFINITIONS

For the purpose of this Order, the following definitions shall apply:

A. "Asset" means any legal or equitable interest in, right to, or claim to, any real and personal property, including, but not limited to, ~~the~~ goods, instruments, equipment, fixtures, general intangibles, inventory, checks, notes, leaseholds, contracts, mail or other deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables, funds, money orders, and cash, wherever located, whether in the United States or abroad.

B. "Assisting others" includes, but is not limited to:

1. performing customer service functions, including, but not limited to, receiving or responding to consumer complaints;

2. formulating or providing, or arranging for the formulation or provision of, any marketing material;

3. providing names of, or assisting in the generation of, potential customers;

or

4. performing marketing or billing services of any kind.

C. “Competent and reliable evidence” means tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

D. “Debt relief service” means any product, service, plan, or program represented, expressly or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of the debt between a consumer and one or more unsecured creditors or debt collectors, including, but not limited to, a reduction in the balance, interest rate, or fees owed by a consumer to an unsecured creditor or debt collector.

E. “Document” is synonymous in meaning and equal in scope to the usage of the

3. provide advice or assistance to any consumer with regard to any activity or service the purpose of which is to improve a consumer's credit record, credit history, or credit rating;

4. provide any consumer, arrange for any consumer to receive, or assist any consumer in receiving, a loan or other extension of credit;

5. provide any consumer, arrange for any consumer to receive, or assist any consumer in receiving, debt relief services; or

6. provide any consumer, arrange for any consumer to receive, or assist any consumer in receiving any service represented, expressly or by implication, to



3. About any material aspect of the nature or terms of a refund, cancellation, exchange, or repurchase policy for any product or service.

B. Representing or assisting others in representing, expressly or by implication, any material aspect of the performance, efficacy, capability, nature, or central characteristic of any product or service, unless, at the time such representation is made, Defendant Wojcik possesses and relies upon a reasonable basis to substantiate that the representation is true.

### III. DUTY TO PROTECT CUSTOMER INFORMATION

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

A. Disclosing, selling, using, or receiving any benefit 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 was obtained by any Defendant prior to entry of this Order in connection with Defendants' debt relief service; and

B. Failing to dispose of customer information described in Subsection A of this Section, titled "Duty to Protect 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 as by burning, pulverizing, or shredding any papers, and by erasing or deleting any electronic media, to ensure that the

*Provided, however*, that customer information need not be disposed of, and may be disclosed, to the extent requested by a government agency or required by a law, regulation, or court order.

#### IV. PROHIBITION ON COLLECTING ACCOUNTS

IT IS FURTHER ORDERED that Defendant Wojcik, and each of his officers, agents, servants, employees, and those persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, affiliate, or other device, are permanently restrained and enjoined from: (a) attempting to collect, collecting, selling, assigning, or otherwise transferring any right to collect payment for debt relief services from any consumer who purchased or agreed to purchase any debt relief services from Defendants prior to the entry of this Order and (b) from withdrawing funds from any consumer's bank account pursuant to any agreement relating to Defendants' debt relief service.

#### V. MONETARY JUDGMENT

IT IS FURTHER ORDERED that:

A. Judgment for equitable monetary relief is entered against Defendant Wojcik, jointly and severally, in the amount of NINETEEN MILLION, SEVEN HUNDRED FORTY FOUR THOUSAND, FIVE HUNDRED SIXTY-FIVE DOLLARS (\$19,744,565)~~),~~*provided, however*, that this judgment shall be suspended subject to the conditions set forth in the Section of this Order titled "Right to Reopen."

B. In the event a monetary payment under this Stipulated Judgment becomes due, all funds paid to the Commission pursuant to this Order 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 the equitable relief. Defendant Wojcik shall cooperate fully to assist the Commission in identifying consumers who may be entitled to restitution under this Order. In the event that direct restitution to consumers is wholly or partially impracticable or funds remain after restitution is completed, the Commission may apply any remaining funds for other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the Complaint. Any funds not used for the equitable relief shall be deposited to the United States Treasury as disgorgement. Defendant Wojcik shall have no right to challenge the Commission's choice of remedies under this Section and shall have no right to contest the manner of distribution chosen by the Commission.

C. If Defendant Wojcik obtains a credit or refund of any federal income taxes or penalties paid for tax years 2010 and 2011, then he shall promptly pay the Commission the amount of the credit or refund, together with any interest he has earned in connection with the credit or refund.

To ensure Defendant Wojcik's compliance with this Subsection:

1. Defendant Wojcik shall deliver to the Commission copies of all completed and signed federal income tax returns and all amended returns, including all attached forms, schedules, and statements, that he files for tax years 2010 and 2011. These copies shall be delivered to the Commission within ten (10) days after each return or amended return is filed with the IRS; and

2. Within ten (10) days after Defendant Wojcik's final date allowed under IRS rules to file an amended federal income tax return for tax years 2010 and 2011, he shall sign and submit to the IRS a Form 4506, along with the Form 4506 fee, directing the IRS to send to the Commission copies of his original federal income tax returns and all amended tax returns filed with the IRS for tax years 2010 and 2011.

D. In the event of default on any obligation to make payment under this Order, 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.

E. Defendant Wojcik relinquishes all dominion, control, and title to the funds paid to the fullest extent permitted by law. Defendant Wojcik shall make no claim to or demand for return of the funds, directly or indirectly, through counsel or otherwise.

F. Defendant Wojcik agrees that the facts as 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. Defendant Wojcik further stipulates and agrees that the facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and that this Order shall have collateral estoppel effect for such purposes.

G. In accordance with 31 U.S.C. § 7701, Defendant Wojcik is required, unless he already has done so, to furnish 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 amounts arising out of his relationship with the government. Defendant Wojcik is further required, regardless he already has done so, to provide the Commission with clear, legible, and full-size photocopies of all valid driver's licenses that he possesses, which will be used for reporting and compliance purposes.

H. This judgment for equitable monetary relief is solely remedial in nature. No portion of any payments made under the judgment shall be deemed a payment of any fine, penalty, punitive assessment, or forfeiture.

I. Proceedings instituted under this Section are in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including any other proceedings the Commission may initiate to enforce this Order.

#### VI. RIGHT TO REOPEN

IT IS FURTHER ORDERED that:

A. The Commission's agreement to this Order and the Court's approval are expressly premised upon the truthfulness, accuracy, and completeness of the sworn financial statement and all attachments signed by Defendant Wojcik on October 20, 2010 and supporting attachments submitted to the Commission on October 22, 2010 and November 1, 2010, and additional sworn statements signed by Defendant Wojcik on November 28, 2010 and December 17, 2010. Defendant Wojcik stipulates that all financial information he submitted to the Commission is truthful, accurate, and complete. The documents submitted contain material information upon which the Commission relied in negotiating and agreeing to the terms of this Order.

B. If, upon motion by the Commission, the Court determines that Defendant Wojcik failed to disclose any material asset, materially misrepresented the value of any asset, or made any other material misrepresentation or omission in his financial disclosures, then the suspension of the judgment, ordered in Subsection A of the Section titled "Monetary Judgment," shall be terminated and the entire judgment amount shall be entered against Defendant Wojcik. The reinstated judgment shall become immediately due and payable by Defendant Wojcik, and interest computed at the rate prescribed under 28 U.S.C. § 1961, as amended, shall immediately begin to accrue on any unpaid balance.

C. In all other respects this Order shall remain in full force and effect unless otherwise ordered by the Court.

D. Proceedings instituted under this Section would be in addition to, and not in lieu of, any other civil or criminal remedies ~~may~~ be provided by law, including any other proceedings that the Commission may initiate to enforce this Order.

## VII. COOPERATION WITH FEDERAL TRADE COMMISSION

IT IS FURTHER ORDERED that Defendant Wojcik shall cooperate in good faith with representatives of the Commission in this case and in any investigation related to or associated with the transactions or occurrences that are the subject of the Commission's Complaint. Defendant Wojcik shall appear at such places and times as a Commission representative shall reasonably request, upon five days written notice, ~~in~~ interviews, conferences, pretrial discovery, review of documents, and for such other matters as may be reasonably requested, and shall provide truthful testimony in any trial, deposition, or other proceeding, without the service of a subpoena.



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

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; or a change in the business name or address, at least thirty (30) days prior to the change, provided that, with respect to any change in the business entity about

4. any other changes required to be reported under Subsection A of this Section.

C. Defendant Wojcik shall notify the Commission of the filing of a bankruptcy petition by Defendant Wojcik within fifteen (15) days of filing.

D. For the purposes of this Order, Defendant Wojcik shall, unless otherwise directed by the Commission's authorized representatives, by overnight courier (not the U.S. Postal Service) all reports and notifications to the Commission that are required by this Order to:

Associate Director for Enforcement  
Bureau of Consumer Protection  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580  
RE: FTC v. Debt Relief USA, Inc., Kelly Reilly, Alvin Bell, James Wojcik,  
and Valerie Leath.Civil Action No. 3:11-CV-2059-N.

Provided that, in lieu of overnight courier, Defendant Wojcik may send reports or notifications by first-class mail, but only if he contemporaneously sends an electronic version of the report or notification to the Commission at DEBrief@ftc.gov.

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

#### X. RECORD KEEPING

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry of this Order, Defendant Wojcik, for any business for which he is the majority owner or directly or indirectly controls, is restrained and enjoined from failing to create and retain the following records:



- A. Accounting records that reflect cost of products sold, revenues generated, and the disbursement of the revenues;
- B. Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by the business, including as an independent contractor; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;
- C. Customer files containing the names, addresses, phone numbers, dollar amounts paid, quantity of items or services purchased, and description of items or services purchased, to the extent the information is obtained in the ordinary course of business;
- D. Complaints and refund requests (whether received directly or indirectly, such as through a third party) and any responses to those complaints or requests;
- E. Copies of all sales scripts, training materials, advertisements, or other marketing materials, including, but not limited to, scripts, talking points, rebuttal recommendations, advertisements, and marketing materials, and a representative copy of all letters or other written communications sent to consumers or third parties; and
- F. All records and documents necessary to demonstrate full compliance with each provision of this Order, including, but not limited to, copies of acknowledgments of receipt of this Order required by the Sections titled "Distribution of Order," and "Acknowledgment of Receipt of Order," and all reports submitted to the Commission pursuant to the Section titled "Compliance Reporting."

XI. DISTRIBUTION OF ORDER

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

A. Defendant Wojcik as control person: For any business that Defendant Wojcik controls, directly or indirectly, or in which he has a majority ownership interest, Defendant Wojcik 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 this Order; and (3) any business entity resulting from any change in structure set forth in Subsection A.4 of the Section titled "Compliance Reporting." For current personnel, delivery shall be within five (5) days of service of this Order upon Defendant Wojcik. 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.4 of the Section titled "Compliance Reporting," delivery shall be at least ten (10) days prior to the change in structure. Defendant Wojcik must secure a signed and dated statement acknowledging receipt of this Order within thirty (30) days of delivery, from all persons receiving a copy of this Order under this Subsection.

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

## XII. ACKNOWLEDGMENT OF RECEIPT OF ORDER

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

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.

A handwritten signature in black ink, reading "David C. Godby". The signature is written in a cursive style with a prominent initial "D" and a stylized "G".

FOR PLAINTIFF FEDERAL TRADE COMMISSION:

WILLARD K. TOM  
General Counsel

DEANYA T. KUECKELHAN  
Regional Director

/s/ Shereen El Domeiri  
SUSAN E. ARTHUR  
Texas Bar No. 01365300  
SHEREEN EL DOMEIRI  
Texas Bar No. 24036518

Date: 8/18/2011

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ATTORNEYS FOR PLAINTIFF  
FEDERAL TRADE COMMISSION