

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

U.S. HOMEOWNERS RELIEF, INC.,
et al.,

Defendants.

Case No. SACV10-1452 JST (PJW_x)

STIPULATED FINAL JUDGMENT
AND ORDER FOR PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF AS TO
DEFENDANT MACIE MEJECO
BAIN

Plaintiff Federal Trade Commission (“FTC”) commenced this civil action on September 27, 2010, pursuant to Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. § 6101 *et seq.*, to obtain preliminary and permanent injunctive and other equitable relief for Defe

STIP. FINAL ORDER AS TO MACIE BAIN

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

1 than the jurisdictional facts, merely by stipulating and agreeing to the entry of this
2 Order.

3 6. The Settling Defendant waives all rights to seek judicial review or otherwise
4 challenge or contest the validity of this Order. The Settling Defendant also waives
5 any claim that she may have held under the Equal Access to Justice Act, 28 U.S.C.
6 § 2412, concerning the prosecution of this action to the date of this Order. The
7 Settling Defendant shall bear her own costs and attorneys fees.

8 7. This action and the relief awarded herein are in addition to, and not in lieu
9 of, other remedies as may be provided by law, including both civil and criminal
10 remedies.

11 8. Entry of this Order is in the public interest.

12 ORDER

13 Definitions

14 For purposes of this Order, the following definitions shall apply:

15 1. ~~Asset~~ means any legal or equitable interest in, right to,
16 or claim to any real or personal property, including, but not limited to, “goods,”
17 “instruments,” “equipment,” “fixtures,” “general intangibles,” “inventory,”
18 “checks,” or “notes” (as these terms are defined in the Uniform Commercial Code),
19 lines of credit, chattels, leaseholds, contracts, mail or other deliveries, shares of
20 stock, lists of consumer names, accounts, credits, premises, receivables, funds, and
21 all cash, wherever located.

22 2. ~~Assignment~~ includes, but is not limited to:

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

25 b. formulating or providing, or arranging for the formulation or
26 provision of, any advertising or marketing material, including, but not limited to,
27 any telephone sales script, direct mail solicitation, or the text of any Internet
28 website, email, or other electronic communication;

1 c. formulating or providing, or arranging for the formulation or
2 provision of, any marketing support material or service, including but not limited
3 to, web or Internet Protocol addresses or domain name registration for any Internet
4 websites, affiliate marketing services, or media placement services;

5 d. providing names of, or assisting in the generation of, potential
6 customers;

7 e. performing marketing, billing, or payment services of any kind;
8 and

9 f. acting or serving as an owner, officer, director, manager, or
10 principal of any entity.

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

16 4. **“Cnir”** means any natural person.

17 5. **“Cnir”** means any person who has paid, or may be required to
18 pay, for products, services, plans, or programs offered for sale or sold by any other
19 person.

20 6. **“Debt relief practice”** means any product, service, plan, or
21 program represented, expressly or by implication, to renegotiate, settle, or in any
22 way alter the terms of payment or other terms of the debt or obligation, including
23 but not limited to a tax debt or obligation, between a person and one or more
24 unsecured creditors or debt collectors, including but not limited to, a reduction in
25 the balance, interest rate, or fees owed by a person to an unsecured creditor or debt
26 collector.

27 7. **“Defedat”** means U.S. Homeowners Relief, Inc., also d/b/a
28 Greenleaf and Greenleaf Modify; Waypoint Law Group, Inc.; American Lending

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 a. provide any consumer, arrange for any consumer to receive, or
2 assist any consumer in receiving, credit, debit, or stored value cards;

3 b. improve, or arrange to improve, any consumer's credit record,
4 credit history, or credit rating;

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

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

10 e. provide any consumer, arrange for any consumer to receive, or
11 assist any consumer in receiving any service represented, expressly or by
12 implication, to renegotiate, settle, or in any way alter the terms of payment or other
13 terms of the debt or obligation, including but not limited to a tax debt or obligation,
14 between a consumer and one or more secured creditors, servicers, or debt
15 collectors.

16 11. **"Material"** means likely to affect a person's choice of, or conduct
17 regarding, goods or services.

18 12. **"Mortgage assistance service"** means any
19 product, service, plan, or program, offered or provided to the consumer in
20 exchange for consideration, that is represented, expressly or by implication, to
21 assist or attempt to assist the consumer with any of the following:

22 a. stopping, preventing, or postponing any mortgage or deed of
23 trust foreclosure sale for the consumer's dwelling, any repossession of the
24 consumer's dwelling, or otherwise saving the consumer's dwelling from
25 foreclosure or repossession;

26 b. negotiating, obtaining, or arranging a modification of any term
27 of a dwelling loan, including a reduction in the amount of interest, principal
28 balance, monthly payments, or fees;

1 c. obtaining any forbearance or modification in the timing of
2 payments from any dwelling loan holder or servicer on any dwelling loan;

3 d. negotiating, obtaining, or arranging any extension of the period
4 of time within which the consumer may (i) cure his or her default on a dwelling
5 loan, (ii) reinstate his or her dwelling loan, (iii) redeem a dwelling, or (iv) exercise
6 any right to reinstate a dwelling loan or redeem a dwelling;

7 e. obtaining any waiver of an acceleration clause or balloon
8 payment contained in any promissory note or contract secured by any dwelling; or

9 f. negotiating, obtaining, or arranging (i) a short sale of a
10 dwelling, (ii) a deed-in-lieu of foreclosure, or (iii) any other disposition of a
11 dwelling loan other than a sale to a third party that is not the dwelling loan holder.

12 The foregoing shall include any manner of claimed assistance, including, but not
13 limited to, auditing or examining a consumer's mortgage or home loan application.

14 13. **Peñ** means a natural person, an organization or other legal
15 entity, including a corporation, partnership, sole proprietorship, limited liability
16 company, association, cooperative, or any other group or combination acting as an
17 entity.

18 14. ~~14. **Peñ**~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

II.

**BAN ON MARKETING MORTGAGE ASSISTANCE RELIEF
PRODUCTS AND SERVICES**

IT IS THEREFORE ORDERED that the Settling Defendant, whether acting directly or through any other person, is permanently restrained and enjoined from:

A. Advertising, marketing, promoting, offering for sale, or selling any mortgage assistance relief product or service; and

B. Assisting others engaged in advertising, marketing, promoting, offering for sale, or selling any mortgage assistance relief product or service.

III.

**PROHIBITED MISREPRESENTATIONS RELATING TO FINANCIAL
RELATED PRODUCTS OR SERVICES**

IT IS FURTHER ORDERED that the Settling Defendant and her officers, agents, servants, employees, and attorneys, and those persons or entities in active concert or participation with any of them who receive actual notice of this Order by personal service, facsimile transmission, email, or otherwise, whether acting directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, marketing, promotion, offering for sale or sale of any financial related product or service, are hereby permanently restrained and enjoined from:

A. Misrepresenting or assisting others in misrepresenting, expressly or by implication, any material fact, including but not limited to:

1. The terms or rates that are available for any loan or other extension of credit, including but not limited to:

- a. closing costs or other fees;
- b. the payment schedule, the monthly payment amount(s), or other payment terms, or whether there is a balloon payment; interest rate(s), annual percentage rate(s), or

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

STIP. FINAL ORDER AS TO MACIE BAIN

IV.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 F. The total costs to purchase, receive, or use, or the quantity of, the
2 product, service, plan, or program;

3 G. Any material restriction, limitation, or condition on purchasing,
4 receiving, or using the product, service, plan, or program;

5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

STIP. FINAL ORDER AS TO MACIE BAIN

1 A. Disclosing, using, or benefitting from customer information, including
2 the name, address, telephone number, email address, social security number, other
3 identifying information, or any data that enables access to a customer's account
4 (including a credit card, bank account, or other financial account) of any person
5 that Settling Defendant obtained prior to entry of this Order in connection with the
6 advertising, marketing, promotion, offering for sale or sale of any mortgage
7 assistance relief service or any debt relief service; and

8 B. Failing to dispose of such customer information in all forms in their
9 possession, custody, or control within thirty (30) days after entry of this Order.
10 Disposal shall be by means that protect against unauthorized access to the customer
11 information, such as by burning, pulverizing, or shredding any papers, and by
12 erasing or destroying any electronic media, to ensure that the customer information
13 cannot practicably be read or reconstructed.

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

17 VIII.

18 MONETARY JUDGMENT

19 **IT IS FURTHER ORDERED** that:

20 A. Judgment is entered, as equitable monetary relief, in favor of the FTC
21 and against Settling Defendant in the amount of three million, six hundred seventy-
22 seven thousand, sixty-eight dollars (\$3,677,068.00), less the sum of any amounts
23 paid to the FTC pursuant to judgments in this action relating to other Defendants,
24 *provided, however,* that this judgment shall be suspended, subject to Subsections
25 VIII.B through VIII.F, below, and Section IX of this Order;

26 B. Any funds received by the FTC pursuant to this Section shall be
27 deposited into a fund administered by the FTC or its agent to be used for equitable
28 relief, including but not limited to consumer redress and any attendant expenses for

1 the administration of any redress funds. In the event that direct redress to
2 consumers is wholly or partially impracticable or funds remain after redress is
3 completed, the FTC may apply any remaining funds for such other equitable relief,
4 including but not limited to consumer information remedies, as the FTC determines
5 to be reasonably related to the practices alleged in the Complaint. Any funds not
6 used for such equitable relief shall be deposited to the U.S. Treasury as equitable
7 disgorgement. The Settling Defendant shall have no right to challenge the FTC's
8 choice of remedies or the manner of distribution.

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

13 D. Settling Defendant agrees that the facts as alleged in the Complaint
14 filed in this action shall be taken as true without further proof in any bankruptcy
15 case or subsequent civil litigation pursued by the FTC to enforce its rights to any
16 payment or money judgment pursuant to this Order, including but not limited to a
17 nondischargeability complaint in any bankruptcy case. Settling Defendant further
18 stipulates and agrees that the facts alleged in the Complaint establish all elements
19 necessary to sustain an action by the FTC pursuant to Section 523(a)(2)(A) of the
20 Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and that this Order shall have
21 collateral estoppel effect for such purposes.

22 E. The judgment entered pursuant to this Section is equitable monetary
23 relief, solely remedial in nature, and not a fine, penalty, punitive assessment or
24 forfeiture.

25 F. Upon request, the Settling Defendant is hereby required, in
26 accordance with 31 U.S.C. § 7701, to furnish to the FTC her tax identification
27 numbers, which shall be used for purposes of collecting and reporting on any
28 delinquent amount arising out of this Order.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

G. Pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

STIP. FINAL ORDER AS TO MACIE BAIN

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 D. Any submission to the Commission required by this Order to be
2 sworn under penalty of perjury must be true and accurate and comply with 28
3 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under
4 the laws of the United States of America that the foregoing is true and correct.
5 Executed on: _____” and supplying the date, signatory’s full name, title (if
6 applicable), and signature.

7 E. Unless otherwise directed by a Commission representative in writing,
8 all submissions to the Commission pursuant to this Order must be emailed to
9 DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to:
10 Associate Director for Enforcement, Bureau of Consumer Protection, Federal
11 Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The
12 subject line must begin: FTC v. U.S. Homeowners Relief, Inc., et al., X 100050.

13 **XIV.**

14 **RECORDKEEPING**

15 IT IS FURTHER ORDERED that Settling Defendant must create certain
16 records for 20 years after entry of the Order, and to retain each such record for 5
17 years. Specifically, Settling Defendant, for any business in which she, individually
18 or collectively with any other Defendants, is a majority owner or directly or
19 indirectly controls, must maintain the following records:

20 A. Accounting records showing the revenues from all goods or services
21 sold, all costs incurred in generating those revenues, and the resulting net profit or
22 loss;

23 B. Personnel records showing, for each person providing services,
24 whether as an employee or otherwise, that person’s: name, addresses, and
25 telephone numbers; job title or position; dates of service; and, if applicable, the
26 reason for termination;

27 C. Customer files showing the names, addresses, telephone numbers,
28

1 dollar amounts paid, and the quantity and description of goods or services
2 purchased;

3 D. Complaints and refund requests, whether received directly or
4 indirectly, such as through a third party, and any response;

5 E. All records necessary to demonstrate full compliance with each
6 provision of this Order, including all submissions to the Commission; and

7 F. A copy of each advertisement or other marketing material.

8 **XV.**

9 **ORDER ACKNOWLEDGMENT**

10 IT IS FURTHER ORDERED that Settling Defendant obtain
11 acknowledgments of receipt of this Order:

12 A. Settling Defendant, within 7 days of entry of this Order, must submit
13 to the Commission an acknowledgment of receipt of this Order sworn under
14 penalty of perjury.

15 B. For 5 years after entry of this Order, Settling Defendant for any
16 business that she, individually or collectively with any other Defendant, is the
17 majority owner or directly or indirectly controls, must deliver a copy of this Order
18 to: (1) all principals, officers, directors, and managers; (2) all employees, agents,
19 and representatives who participate in conduct related to the subject matter of the
20 Order; and (3) any business entity resulting from any change in structure as set
21 forth in the Section titled Compliance Reporting. Delivery must occur within 7
22 days of entry of this Order for current personnel. To all others, delivery must
23 occur before they assume their responsibilities.

24 C. From each individual or entity to which Settling Defendant delivered
25 a copy of this Order, Settling Defendant must obtain, within 30 days, a signed and
26 dated acknowledgment of receipt of this Order.

XVI.

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 1st day of December, 2011.

Josephine Staton Tucker
United States District Judge

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28