

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 11-80155-CIV-COHN/SELTZER

FEDERAL TRADE COMMISSION,

Plaintiff,

vs.

U.S. MORTGAGE FUNDING, INC.,
a Florida corporation, et al.,

Defendants.

**STIPULATED FINAL JUDGMENT AND ORDER FOR PERMANENT INJUNCTION
AND OTHER EQUITABLE RELIEF AS TO DEFENDANT JAMEN LACHS**

THIS CAUSE is before the Court upon the filing of a Proposed Stipulated Judgment and Order For Permanent Injunction and other Equitable Relief as to Defendant Jamen Lachs [DE 154-3] (“Stipulation”). The Court has carefully reviewed the Stipulation and is otherwise fully informed in the premises.

On February 7, 2011, Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), commenced this civil action 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 (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108 to obtain preliminary and permanent injunctive and other equitable relief. On July 26, 2011, Plaintiff filed an *Amended* Complaint adding Louis Gendason as a Defendant. The *Amended* Complaint alleges that Defendants violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) and the

FTC's Telemarketing Sales Rule ("TSR"), 16 C.F.R. Part 310, in connection with the marketing and sale of mortgage assistance relief services.

The FTC and Defendant Jamen Lachs hereby stipulate to the Final Judgment and Order for Permanent Injunction and Other Equitable Relief ("Order")j6.0000 0.0000 TD(h the)TjET

6. The parties stipulate and agree to entry of this Order, without trial or final adjudication of any issue of fact or law, to settle and resolve all matters in dispute arising from the conduct alleged in the Complaint to the date of entry of this Order. This settlement does not settle or resolve any matters not alleged in the Complaint. Except as otherwise provided herein, Defendant Jamen Lachs does not admit any of the allegations set forth in the Complaint, other than the jurisdictional facts, merely by stipulating and agreeing to the entry of this Order.

7. Defendant Jamen Lachs waives all rights to seek judicial review or otherwise challenge or contest the validity of this Order. Defendant Lachs also waives any claim that he may have held under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action to the date of this Order. Each settling party shall bear its own costs and attorneys' fees.

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

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

DEFINITIONS

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

1. **“Assisting others”** includes, but is not limited to: (A) performing customer service functions, including, but not limited to, receiving or responding to consumer complaints; (B) formulating or providing, or arranging for the formulation or provision of, any advertising or marketing material, including, but not limited to, any telephone sales

script, direct mail solicitation, or the design, text, or use of images of any Internet website, email, or other electronic communication; (C) formulating or providing, or arranging for the formulation or provision of, any marketing support material or service, including but not limited to, web or Internet Protocol addresses or domain name registration for any Internet websites, affiliate marketing services, or meD(b)3.4400 03v

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from foreclosure or repossession; (B) negotiating, obtaining, or arranging a modification of any term of a dwelling loan, including a reduction in the amount of interest, principal balance, monthly payments, or fees; (C) obtaining any forbearance or modification in the timing of payments from any dwelling loan holder or servicer on any dwelling loan; (D) negotiating, obtaining, or arranging any extension of the period of time within which the consumer may (i) cure his or her default on a dwelling loan, (ii) reinstate his or her dwelling loan, (iii) redeem a dwelling, or (iv) exercise any right to reinstate a dwelling

contains a written description or illustration of the goods or services offered for sale; includes the business address of the seller; includes multiple pages of written material or illustrations; and has been issued not less frequently than once a year, when the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls takes orders only without further solicitation. For purposes of the previous sentence, the term "further solicitation" does not include providing the customer with information about, or attempting to sell, any other item included in the same catalog, which prompted the customer's call or in a substantially similar catalog.

ORDER

I. PERMANENT BAN ON MORTGAGE ASSISTANCE RELIEF PRODUCTS AND SERVICES

IT IS THEREFORE ORDERED that Defendant Jamen Lachs, 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.

Provided that Section I.A. and B. shall not prohibit Defendant Lachs who is licensed to practice law from directly rendering routine legal services (1) to clients with whom such Defendant has an attorney-client relationship in connection with new or existing bankruptcy proceedings or with estate planning, or (2) in connection with the

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terms of the seller's ref

- a. closing costs or other fees;
- b. the payment schedule, the monthly payment amount(s), or other payment terms, or whether they pay(s

history, or credit rati

A. Any material aspect of the nature or terms of any refund, cancellation, exchange, or repurchase policy, including, but not limited to the likelihood of a consumer obtaining a full or partial refund, or the circumstances in which a full or partial refund will be granted to the consumer;

B. That any person is affiliated with, endorsed or approved by, or otherwise connected to any other person, government entity, any federal homeowner relief or

are hereby permanently restrained and enjoined from making any representation or assisting others in making any representation, expressly or by implication, about the benefits, performance, or efficacy of any financial related product or service, unless at the time such representation is made, Defendant Lachs possesses and relies upon competent and reliable evidence that substantiates that the representation is true.

VI. MONETARY JUDGMENT

IT IS FURTHER ORDERED that:

- A. Judgment is entered against Defendant Jamen Lachs, jointly and severally with the other Defendants in this matter, in the amount of \$3,580,050.00, *provided, however*, \$3,170,274.00 shall be suspended shall be suspended subject to the conditions set forth in Section titled "Right to Reopen." The remainder \$409,776.00 shall not be suspended.
- B. Upon entry of this Order, \$409,776.00, the portion of the monetary judgment that is not suspended shall become immediately due and payable, and interest, computed pursuant to 28 U.S.C. §1961(a), as amended, immediately shall begin to accrue upon any unpaid balance.
- C. Defendant Lachs shall immediately transfer to the Commission any tax refund that he may receive for taxes paid in 2008, 2009 and 2010.
- D. All funds paid 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 consumer redress, and any attendant expenses for the administration of such equitable relief. Defendant Lachs shall cooperate fully

to assist the Commission in identifying consumers who may be entitled to redress pursuant to this Order. If the Commission determines, in its sole discretion, that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as the FTC determines to be reasonably related to Defendants' practices alleged in the Complaint. Any funds not used for such equitable relief shall be deposited to the United States Treasury as disgorgement. Defendant Lachs shall have no right to challenge the Commission's choice of remedies under this Section. Defendant Lachs shall have no right to contest the manner of distribution chosen by the Commission. This judgment for equitable monetary relief is solely remedial in nature and is not a fine, penalty, punitive assessment, or forfeiture.

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

F. Defendant Lachs agrees that the facts as alleged in the Complaint filed in this action shall be taken as true, without further proof, in any subseDe.00 0.00 0.00 rgBT108.0

provided to Plaintiff on May 19, 2011 and November 18, 2011, and sworn
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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, affiliate or other device, are hereby permanently restrained and enjoined from attempting to collect, collecting, selling, or assigning, or otherwise transferring any right to collect payment from any consumer relating to the purchase of mortgage loan modification or foreclosure relief services.

IX. PROHIBITIONS ON USE OF CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Defendant Jamen Lachs and his agents, servants, employees, and attorneys, and those persons or entities in a0000 0f0.0000 Tc0.0600 TwS 9

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 destroying any electronic media, to ensure that the customer information cannot practicably be read or reconstructed.

Provided further, however, 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.

X. COOPERATION WITH COMM

entry of this Order for current personnel. To all others, delivery must occur before they assume their responsibilities.

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

XIII. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendant Jamen Lachs make timely submissions to the Commission:

A. One year after entry of this Order, Defendant Lachs must submit a compliance report, sworn under penalty of perjury.

1. (a) identify all telephone numbers and all email, Internet, physical, and postal addresses, including all residences; (b) identify all titles and roles in all business activities, including any business for which Defendant Lachs performs services whether as an employee or otherwise and any entity in which Defendant Lachs has any ownership interest; (c) describe in detail Defendant Lachs' involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership;

2. (a) designate at least one telephone number and an email, physical, and postal address as points of contact, which representatives of the Commission may use to communicate with Defendant Lachs; (b) identify all of Defendant Lachs' businesses by all of their names,

telephone numbers, and physical, postal, email, and Internet addresses;

(c) describe the activities of each business, including the products and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant (which Defendant Lachs must describe if he knows or should know due to his own involvement); (d) describe in detail whether and how Defendant Lachs is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission;

B. For 20 years following entry of this Order, Defendant Jamen Lachs must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for which Defendant Lachs performs services whether as an employee or otherwise and any entity in which Defendant Lachs has any ownership interest, and identify its name, physical address, and Internet address, if any.
2. (a) any designated point of contact; (b) the structure of any entity that Defendant Lachs has any ownership interest in or directly or indirectly controls that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any

subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

C. Defendant Lachs must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or any similar proceeding by or against him within 14 days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 18 U.S.C. § 1746, such as by concluding: "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____" and supplying the date, signatory's full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, D.C. 20580. The subject line must begin: RE: *FTC v. U.S. Mortgage Funding, Inc., et al.*, X110016.

XIV. RECORDKEEPING

IT IS FURTHER ORDERED that Defendant Jamen Lachs must create certain records for 20 years after entry of the Order, and retain each such record for 5 years. Specifically, Defendant Lachs, for any business in which he, individually or collectively

with any other Defendant, is a majority owner or directly or indirectly controls, mu

A. Within 14 days of receipt of written request from a representative of the Commission, Defendant Lachs must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents, for inspection and copying. The Commission is also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

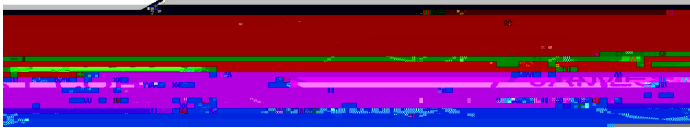
B. For matters concerning this Order, the Commission is authorized to communicate directly with Defendant Lachs. Defendant Lachs must permit representatives of the Commission to interview any employee or other person affiliated with him who has agreed to such an interview. The person interviewed may have counsel present.

C. The Commission may use all other lawful means, including posing, through its representatives, as consumers, suppliers, or other individuals or entities, to Defendant Lachs or any individual or entity affiliated with Defendant Lachs, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

XVI. RETENTION OF JURISDICTION

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

DONE AND ORDERED in chambers in Fort Lauderdale, Broward County, Florida, this 3rd day of February, 2012.



Copies to counsel of record via CM/ECF.