

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

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

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, LLC and as an  
owner of Smith, Gromann & Davidson, P.A.,

Case No.1:09CV02712

Judge Christopher A. Byko

JOHN W. SMITH,  
individually and as a owner of Smith,  
Gromann & Davidson, P.A., and  
Credit Law Group,

GLENN E. GROMANN,  
individually and as a owner of Smith,  
Gromann & Davidson, P.A., and  
Credit Law Group,

KEVIN M CCORMICK,  
individually,

BRADFORD R. GEISEN,  
individually and the owner and an officer of  
Credit Service Alliance, hc.,

MAURICE JACKSON,  
individually and as an officer of Credit  
Service Alliance, hc., and

PATRICK BUTLER,  
individually.

Defendants

SECOND AMENDED COMPLAINT FOR PERMANENT  
INJUNCTION AND OTHER EQUITABLE RELIEF

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), for its Complaint  
alleges:

1. The FTC brings this action under Section 13(b) of the Federal Trade Commission  
Act (“FTC Act”), 15 U.S.C. §§ 53(b), to obtain temporary, preliminary and permanent  
injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid,  
disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts or practices in

violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), in connection with the marketing and sale of mortgage loan modification and foreclosure relief services.

#### JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a) and 1345, and 15 U.S.C. §§ 45(a) and 53.

3. Venue is proper in this District under 28 U.S.C. § 1391(b) and (c), and 15 U.S.C. § 53(b).

#### PLAINTIFF

4. Plaintiff FTC is an independent agency of the United States Government created by statute. 15 U.S.C. § 41 *seq.* The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) which prohibits unfair or deceptive acts or practices in or affecting commerce.

5. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act, and to secure such equitable relief as may be appropriate in each case, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b), 56(a), 56(a)(2)(B), and 57b.

#### 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, Gromann, 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 & Gromann, an Interstate Partnership of Professional Associations, doing business as Smith & Gromann, 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 Green 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. § 362(a)(1)(2), (3), or (6) because it is an action brought by the FTC to enforce the FTC's police and regulatory powers as a governmental unit pursuant to 11 U.S.C. § 362(b)(4), and thus, falls within an exception to the automatic stay.

9. Defendant Credit Services Alliance Inc. (CSA), is a Florida corporation owned, directly or indirectly, by Defendant Bradford R. Geisen. Its principal place of business is at

2201 N.W. Corporate Blvd., Suite 200, Boca Raton, Florida 33431. Though Defendant CLG, CSA transacts or has transacted business in this district and throughout the United States. Defendant CSA filed for bankruptcy in the United States Bankruptcy Court for the Southern District of Florida on December 1, 2009 (Case No. 09-36556 EPK). The bankruptcy case is now closed.

10. Defendant Edward J. Davidson (Davidson), is or has been an owner, manager, officer or director of DAC and SG&D. Davidson is an attorney whose registered business address is PO. Box 1206, Ridgefield, Connecticut 06877. At times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of DAC and SG&D including the acts and practices set forth in this Complaint. Defendant Davidson, in connection with the matters alleged herein, transacts or has transacted business in this District and throughout the United States.

11. Defendant John W Smith (Smith) is an owner, manager, officer or director of SG&D and, either directly or indirectly, of CLG. Smith is an attorney whose current business address is 1095 Broken Sound Parkway, Suite 201, Boca Raton, Florida 33487. He has also used the address of 2201 N.W. Corporate Blvd., Suite 200, Boca Raton, Florida 33431 and 5295 Town Center Road, Suite 201, Boca Raton, Florida 33486. At times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of SG&D and CLG, including the acts and practices set forth in this Complaint. Defendant Smith, in connection with the

matters alleged herein, transacts or has transacted business in this District and throughout the United States.

12. Defendant Glen E. Gromann (Gromann) is an owner, manager, officer or director of SG&D and, either directly or indirectly, of CLG. Gromann is an attorney whose current business address is 1095 Browne Sound Parkway, Suite 201, Boca Raton, Florida 33487. He has also used the address of 2201 N.W. Corporate Blvd, Suite 200, Boca Raton, Florida 33431 and 5295 Town Center Road, Suite 201, Boca Raton, Florida 33486. At times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of SG&D and CL

owner of CSA and a financier of CLG. At times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of CLG and CSA, including the acts and practices set forth in this Complaint. Defendant Geisen, in connection with the matters alleged herein, transacts and has transacted business in this District and throughout the United States.

15. Defendant Marice Jackson (Jackson) is a resident of Florida and is currently the Vice President of Operations of CSA. At various times, he also acted on behalf of CLG and supervised its sales force. At times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of CLG and CSA, including the acts and practices set forth in this Complaint. Defendant Jackson, in connection with the matters alleged herein, transacts and has transacted business in this District and throughout the United States.

16. Defendant Patricia





DEFENDANTS' BUSINESS PRACTICES - DAC AND SG&D

19. Together, DAC, SG&D, Davidson, McCormick, Smith, and Gromann will be referred to as the "DAC Defendants."

20. Since at least November 2007 until approximately November 2009, acting alone or in concert with others, DAC advertised, marketed, offered for sale, or sold loan modification and foreclosure relief services to consumers throughout the United States. In or around August 2009, DAC renamed itself SG&D and since that time has advertised, marketed, offered for sale, or sold those same services to consumers throughout the United States.

21. From at least January 1, 2008, and until the filing of the original Complaint herein, DAC and later, SG&D, engaged in a course of conduct to advertise, market, offer to sell, and sell to consumers mortgage loan modification and foreclosure relief services. The DAC Defendants marketed the services through Internet websites, including [www.thedebtadvocacycenter.com](http://www.thedebtadvocacycenter.com), [sgdandd.com](http://sgdandd.com), and [www.foreclosurefish.com](http://www.foreclosurefish.com) to homeowners who were behind in their mortgage payments or who were in danger of losing their homes to foreclosure.

22. The DAC Defendants' websites contained statements intended to induce consumers to purchase mortgage loan modification and foreclosure relief services, including the following:

a. **MODIFY YOUR LOAN PAYMENTS TO WHAT YOU DESIRE  
OR WE PAY YOU!**

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 unhead 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 available. They

numerous instances the consultants stated that the DAC Defendants had a success rate 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 servicers 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 upfront 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 do-it-yourself kit containing "educational materials" about how consumers should act when the consumers attempt to



34.

audit. In fact, the forensic loan audit was unlikely to find violations that provide sufficient leverage to obtain a successful loan modification.

38. Some consumers who contracted with the CLG Defendants wanted to negotiate a short sale as an alternative to foreclosure. A short sale is a sale of the house for an amount less than the remaining mortgage balance and requires the agreement of the mortgage holder. The CLG Defendants' representatives told consumers that a forensic loan audit was necessary to give them leverage in the short sale process, and that, with such leverage, they were likely to complete a short sale. They charged consumers \$995 up front for the forensic loan audit. In fact, the forensic loan audit was unlikely to find violations that provide leverage in short sale negotiations.

39. The CLG Defendants had little success in obtaining loan modifications or short sales for its clients. In the spring of 2009, the CLG Defendants turned over at least 400 of its loan modification and short sale files to Defendant DAC under agreements that required DAC to attempt to obtain the loan modifications and short sales and split any resulting success fees with the CLG Defendants. The CLG Defendants did not attempt to obtain its clients' consent before turning their files over to DAC.

#### VIOLATIONS OF SECTION 5 OF THE FTC ACT

40. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits "unfair or deceptive acts or practices in or affecting commerce."

41. Misrepresentations or deceptive omissions of material facts constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

42. Acts or practices are unfair under Section 5 of the FTC Act if they cause or are likely to cause substantial injury to consumers that consumers cannot reasonably avoid and that is not outweighed by countervailing benefits to consumers or competition. 15 U.S.C. § 45(n).

#### COUNT I

43. In numerous instances in connection with the advertising, marketing, promotion, offering for sale, or sale of mortgage loan modification or foreclosure escrow services, the DAC Defendants have represented, directly or indirectly, expressly or by implication, that the DAC Defendants will obtain for consumers mortgage loan modifications, in all or virtually all instances, that will make their mortgage payments substantially more affordable.

44. In truth and in fact, the DAC Defendants do not obtain for consumers mortgage loan modifications, in all or virtually all instances, that will make their mortgage payments substantially more affordable.

45. Therefore, the DAC Defendants' representation as set forth in Paragraph 43 is false and misleading and constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S. C. § 45(a).

#### COUNT II

46. In numerous instances in connection with the advertising, marketing, promotion, offering for sale, or sale of mortgage loan modification or foreclosure escrow services, the DAC Defendants have represented, directly or indirectly, expressly or by implication, that they have helped over 90% of their clients obtain a mortgage loan modification.

47. In truth and in fact, the material representation set forth in paragraph 44 is false or was not substantiated at the time the representation was made.

48. Therefore, the making of the representation as set forth in Paragraph 46 of this Complaint constitutes a deceptive act or practice, in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

#### COUNT II I

49. In numerous instances in connection with the advertising, marketing, promotion, offering for sale, or sale of mortgage loan modification or foreclosure escrow services, the DAC Defendants have represented, directly or indirectly, expressly or by implication, that if they are unsuccessful at arranging a loan modification or other foreclosure relief for a consumer, the DAC Defendants will refund the consumers' money and/or pay a penalty.

50. In truth and in fact in numerous instances, the DAC Defendants have not given refunds or paid a penalty to consumers for whom they failed to obtain a loan modification or other foreclosure relief.

51. Therefore, the DA



54. Therefore, the DAC Defendants' practice as described in Paragraph 52 above constitutes an unfair trade 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, or sale of mortgage loan modification or foreclosure rescue services, the CLG Defendants have represented, directly or indirectly, expressly or by implication, that as a result of forensic loan audits of consumers' mortgage loan documents that the CLG Defendants perform, consumers generally would obtain (a) mortgage loan modifications that will make their mortgage payments substantially more affordable or (b) completed short sales.

56. In truth and in fact, as a result of forensic loan audits of consumers' mortgage loan documents that the CLG Defendants perform, consumers did not generally obtain (a) mortgage loan modifications that will make their mortgage payments substantially more affordable or (b) completed short sales.

57. Therefore, the CLG Defendants' representation as set forth in Paragraph 55 is false and misleading and constitutes a de

THIS COURT'S POWER TO GRANT RELIEF

59. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC. The Court, in the exercise of its equitable jurisdiction, may award any relief, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of any provision of law enforced by the FTC.

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: \_\_\_\_\_

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**

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