

1 ADVOCATES FOR CONSUMER)
2 AFFAIRS EXPERT, LLC, a California)
3 Limited Liability Company; and)
4 RYAN ZIMMERMAN,)
5 Defendants.)

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7 Plaintiff Federal Trade Commission (“FTC”) commenced this civil action on
8 May 30, 2012, pursuant to Sections 13(b) and 19 of the Federal Trade Commission
9 Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and the 2009 Omnibus
10 Appropriations Act, Public Law 111-5, Section 626, 123 Stat. 524, 678 (Mar. 11,
11 2009) (“Omnibus Act”), as clarified by the Credit Card Accountability
12 Responsibility and Disclosure Act of 2009, Public Law 111-24, Section 511, 123
13 Stat. 1734-64 (May 22, 2009) (“Credit Card Act”), to obtain preliminary and
14 permanent injunctive and other equitable relief for Defendants’ alleged violations
15 of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the Mortgage Assistance
16 Relief Services Rule (“MARS Rule”), 16 C.F.R. Part 322, recodified as Mortgage
17 Assistance Relief Services, 12 C.F.R. Pa

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or domain name registration for any Internet websites, affiliate marketing services, or media placement services;

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1 successors, assigns, affiliates, subsidiaries, and each of them
2 by whatever names each might be known.

3 b. "Individual Defendant" means Ray Zimmerman and any other
4 names by which he might be known.

5 8. "Document" or "Documents" means any materials filed in Federal
6 Rule of Civil Procedure Rule 34(a) and includes writings, drawings, graphs, charts,
7 photographs, audio and video recordings, computer records, and other data
8 compilations from which the information can be obtained and translated, if
9 necessary, through detection devices in a reasonably usable form. A draft or non-
10 identical copy is a separate document with the meaning of the term. It also
11 includes electronically stored information.

12 9. "Federal homeowner relief or financial stability program" means any
13 program (including its sponsoring agency, telephone numbers, and Internet
14 websites) operated or endorsed by the United States government to provide relief
15 to homeowners or stabilize the economy, including, but not limited to:

- 16 a. The Making Home Affordable Program;
- 17 b. The Financial Stability Plan;
- 18 c. The Troubled Asset Relief Progr

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1 Foundation, or any other HUD approved housing counseling
2 agency.

3 10. "Financial Institution" means any bank, savings and loan institution,
4 credit union, or any financial depository of any kind, including, but not limited to,
5 any brokerage house, trustee, broker, escrow agent, title company,
6 commodity trading company, or precious metal dealer.

7 11. "Financial related product or service" means any product, service,
8 plan, or program represented expressly or by implication, to:

- 9 a. Provide any consumer, or arrange for any consumer to receive, or
10 assist any consumer in receiving, credit, debit, or stored value
11 cards;
- 12 b. Improve, or arrange to improve, any consumer's credit record,
13 credit history, or credit rating;
- 14 c. Provide advice or assistance to any consumer with regard to
15 any activity or service the purpose of which is to improve a
16 consumer's credit record, credit history, or credit rating;
- 17 d. Provide any consumer, or arrange for any consumer to receive, or
18 assist any consumer in receiving, a loan or other extension of
19 credit; or
- 20 e. Provide any consumer, or arrange for any consumer to receive, or
21 assist any consumer in receiving, any service represented,
22 expressly or by implication, to negotiate, settle, or in any way
23 alter the terms of payment or other terms of any debt or
24 obligation (other than a debt obligation secured by a
25 mortgage on a consumer's dwelling), including but not limited
26 to a tax debt or obligation between a consumer and one or
27 more secured creditors, servicers, or debt collectors.

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1 12. "Material fact" means any fact that is likely to affect a person's choice
2 of, or conduct regarding, goods or services.

3 13. "Mortgage assistance relief product or service" means any product,
4 service, plan, or program, offered or provided to the consumer in exchange for
5 consideration, that is represented, expressly or by implication, to assist or attempt
6 to assist the consumer with any of the following:

- 7 a. Stopping, preventing, or postponing any mortgage or deed of
- 8 trust foreclosure sale for the consumer's dwelling, any
- 9 repossession of the consumer's dwelling, or otherwise saving
- 10 the consumer's dwelling from

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1 The foregoing shall include any manner of
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VI. PROHIBITION ON DISCLOSING CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Defendants, and their officers, agents, servants, employees, and attorneys, 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, direct financial account), of any person which any Defendant obtained prior to entry of this Order in connection with the marketing and sale of mortgage assistance relief services; 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 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, 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.

VII. MONETARY JUDGMENT

IT IS FURTHER ORDERED that Judgment is hereby entered in favor of the Commission and against Defendants jointly and severally, for equitable monetary relief, in the amount of \$3,543,069.69 (three million, five hundred forty-six thousand, thirty dollars and sixty-nine cents), *provided, however,* that the Judgment for equitable monetary relief shall be suspended upon the satisfaction of the obligations imposed by Subsections A of this Section, and subject to the conditions set forth in Section VIII of this Order:

1 A. Any funds received by the FTC pursuant to this Order shall be
 2 deposited into a fund administered by the FTC's agent to be used for equitable
 3 relief, including, but not limited to, consumer redress and attendant expenses
 4 for the administration of any redress fund. In the event that direct redress to
 5 consumers is wholly or partially impracticable or funds remain after redress is
 6 completed, the FTC may apply any remaining funds for such other equitable relief
 7 (including consumer information remedies) as it determines to be reasonably
 8 related to Defendants' practices alleged in the Complaint. Any funds not used for
 9 such equitable relief shall be deposited to the U.S. Treasury as disgorgement.
 10 Defendants shall have no right to challenge the FTC's choice of remedies under
 11 this Section, and shall have no right to contest the manner of distribution chosen by
 12 the FTC;

13 B. This judgment for equitable monetary relief is solely remedial in
 14 nature and is not a fine, penalty, punitive assessment, or forfeiture;

15 C. In the event of any default on a Defendant's obligation to make
 16 payment under this Section, interest, computed pursuant to 28 U.S.C. § 1961, as
 17 amended, shall accrue from the date of default to the date of payment, and shall
 18 immediately become due and payable;

19 D. Defendants relinquish all dominion, control, and title to the funds paid
 20 to the fullest extent permitted by law. Defendants shall make no claim to or
 21 demand for return of the funds, directly or indirectly, through counsel or otherwise;

22 E. Defendants agree that the facts alleged in the Complaint filed in
 23 this action shall be taken as true without further proof in any bankruptcy case or
 24 subsequent civil litigation pursued by the FTC to enforce its rights to any payment
 25 or money judgment pursuant to this Order, including but not limited to a
 26 nondischargeability complaint in any bankruptcy case. Defendants further
 27 stipulate and agree that the facts alleged in the Complaint establish all elements
 28 necessary to sustain an action by the FTC pursuant to Section 523(a)(2)(A) of the

1 Bankruptcy Code, 11 U.S.C. 523(a)(2)(A), and that this Order shall have collateral
2 estoppel effect for such purposes;

3 F. In accordance with 31 U.S.C. § 7701, Defendants are hereby required,
4 unless Defendants have already done so, to furnish to the FTC their taxpayer
5 identifying numbers, which shall be used for purposes of collecting and reporting
6 on any delinquent amount arising out of Defendants' relationship with the
7 government; and

8 G. Pursuant to Section 604(a)(1) of the Fair Credit Reporting Act, 15
9 U.S.C. § 1681b(a)(1), any consumer reporting agency may furnish a consumer
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1 company, subsidiary, division, or other device, or any of them, are hereby
2 permanently restrained and enjoined from attempting to collect, collecting, or
3 assigning any right to collect payment from any consumer who purchased or
4 agreed to purchase any Defendant's mortgage assistance relief service.

5 X. RECEIVERSHIP

6 IT IS FURTHER ORDERED that the appointment of Michael A.
7 Grassmueck, as Receiver over the Corporate Defendants, pursuant to the
8 Temporary Restraining Order entered May 30, 2012, and the Preliminary
9 Injunction entered on June 7, 2012, is hereby continued in full force and effect
10 except as modified by this Section. The Receiver shall complete liquidation of all
11 assets of Corporate Defendants. Upon liquidation of the assets of Corporate
12 Defendants, the Receiver shall submit his final report and application for fees and
13 expenses, and upon approval of the same by the Court, shall pay any remaining
14 funds to the FTC. Upon the Court's approval of the Receiver's final report, and
15 the payment of any remaining funds to the FTC under this Section, the
16 Receivership over Corporate Defendants shall be terminated.

17 XI. DISSOLUTION OF ASSET FREEZE

18 IT IS FURTHER ORDERED that the freeze on the assets of Defendants
19 shall remain in effect until they have taken all of the actions required by Section
20 VII above. Once Defendants have fully complied with the requirements of Section
21 VII, the freeze against the assets of Defendants shall be lifted permanently. A
22 financial institution shall be entitled to rely upon a letter from Plaintiff stating that
23 the freeze on the assets of Defendants has been lifted.

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1 merger, sale, or dissolution of the entity or any subsidiary,
2 parent, or affiliate that engages in any acts or practices subject
3 to this Order; and

4 2. Additionally, Individual Defendant must report any change in:
5 (a) name, including aliases or fictitious name, or residence
6 address; or (b) title or role in any business activity, including
7 any business for which Defendant performs services whether as
8 an employee or otherwise and any entity in which Defendant
9 has any ownership interest, and identify its name, physical
10 address, and Internet address, if any;

11 C. Each Defendant must submit to the FTC notice of the filing of any
12 bankruptcy petition, insolvency proceeding, or any similar proceeding by or
13 against such Defendant within fourteen (14) days of its filing;

14 D. Any submission to the FTC required by this Order to be sworn under
15 penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746,
16 such as by concluding: "I declare under penalty of perjury under the laws of the
17 United States of America that the foregoing is true and correct. Executed on:
18 _____" and supplying the date, signatory's full name, title (if applicable), and
19 signature; and

20 E. Unless otherwise directed by an FTC representative in writing, all
21 submissions to the FTC pursuant to this Order must be emailed to
22 DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to:
23 Associate Director for Enforcement, Bureau of Consumer Protection, Federal
24 Trade Commission, 600 Pennsylvania Ave NW, Washington, D.C. 20580. The
25 subject line must begin: FTC v. Consumer Advocates Group, LLC, No.
26 1123137.

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XIV. RECORDKEEPING

IT IS FURTHER ORDERED that Defendants must create certain records for twenty (20) years after ~~by~~ of the Order, and retain each such record for five (5) years. Specifically, Individual Defendant and each Corporate Defendant for any business in which that Defendant, ~~individually~~ or collectively with any other Defendants, is a majority ~~owner~~ or directly or indirectly controls, must maintain the following records:

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

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

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

D. All records necessary to demonstrate full compliance with each provision of this Order, including ~~all~~ submissions to the FTC; and

E. A copy of each advertisement ~~or~~ other marketing material related to the marketing of any financial good or service.

XV. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants' compliance with this Order, ~~including~~ the financial representations upon which the judgment was suspended:

A. Within fourteen (14) days ~~of~~ receipt of a written request from a representative of the FTC, each ~~Defendant~~ Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and ~~produce~~ produce documents, for inspection and

1 copying. The FTC is also authorized to obtain discovery, without further leave of
2 court, using any of the procedures provided by Federal Rules of Civil Procedure
3 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69;

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