

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

E.M.A. NATIONWIDE, INC., *et al.*,

Defendants.

Case No. 1:12-cv-02394-JG

Judge James S. Gwin

Magistrate Judge McHargh

**STIPULATED FINAL ORDER FOR PERMANENT INJUNCTION
AND SETTLEMENT OF CLAIMS BETWEEN
PLAINTIFF AND DEFENDANT JOSEPH SHAMOLIAN**

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Rule”), 16 C.F.R. Part 322, recodified as Mortgage Assistance Relief Services, 12 C.F.R. Part 1015 (“Regulation O”), in connection with the marketing and sale of debt relief services, and mortgage assistance relief services. On November 20, 2012, the Court entered a preliminary injunction against Defendant Joseph Shamolian. The FTC and Defendant Shamolian (“Defendant”) hereby stipulate to the entry of this Final Order for Permanent Injunction and Settlement of Claims (“Order”).

FINDINGS

By stipulation of the parties and being advised of the premises, the Court finds:

1. This is an action by the FTC instituted under Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, the Telemarketing Act, 15 U.S.C. § 6101 *et seq.*, and Section

- 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 media placement services;
- D. providing names of, or assisting in the generation of, potential customers;
- E. performing marketing, billing, or payment services of any kind; and

6. **“Document”** is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which the information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.
7. **“Federal homeowner relief or financial stability program”** means any program

8. **“Financial related product or service”** means any product, service, plan, or program represented, expressly or by implication, to:
 - A. provide any consumer, arrange for any consumer to receive, or assist any consumer in receiving, credit, debit, or stored value cards;
 - B. improve, or arrange to improve, any consumer's credit record, credit history, or credit rating;
 - C. 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;
 - D. provide any consumer, arrange for any consumer to receive, or assist any consumer in receiving, a loan or other extension of credit; or
 - E. provide any consumer, arrange for any consumer to receive, or assist any consumer in receiving any service represented, expressly or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of any debt or obligation (other than a debt or obligation secured by a mortgage on a consumer's dwelling) between a consumer and one or more secured creditors, servicers, or debt collectors.
9. **“Material”** means likely to affect a person’s choice of, or conduct regarding, goods or services.
10. **“Mortgage assistance relief product or service”** means any product, service, plan, or program, offered or provided to the consumer in exchange for consideration, that is

represented, expressly or by implication, to assist or attempt to assist the consumer with any of the following:

- A. stopping, preventing, or postponing any mortgage or deed of trust foreclosure sale for the consumer's dwelling, any repossession of the consumer's dwelling, or otherwise saving the consumer's dwelling 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 loan or redeem a dwelling;
- E. obtaining any waiver of an acceleration clause or balloon payment contained in any promissory note or contract secured by any dwelling; or
- F. negotiating, obtaining, or arranging (i) a short sale of a dwelling, (ii) a deed-in-lieu of foreclosure, (iii) or any other disposition of a dwelling loan other than a sale to a third party that is not the dwelling loan holder.

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

11. **“Person”** means a natural person, an organization or other legal entity, including a corporation, partnership, sole proprietorship, limited liability company, association, cooperative, or any other group or combination acting as an entity.
12. **“Telemarketing”** means a plan, program, or campaign which is conducted to induce the purchase of goods or services or a charitable contribution, by use of one or more telephones and which involves more than one interstate telephone call, whether inbound or outbound.

ORDER

BAN ON DEBT RELIEF AND MORTGAGE ASSISTANCE RELIEF PRODUCTS OR SERVICES

- I. **IT IS THEREFORE ORDERED** that 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 debt relief product or service, or mortgage assistance relief product or service; and
 - B. Assisting others engaged in advertising, marketing, promoting, offering for sale, or selling any debt relief product or service, or mortgage assistance relief product or service.

PROHIBITED MISREPRESENTATIONS RELATING TO FINANCIAL RELATED PRODUCTS OR SERVICES

- II. **IT IS FURTHER ORDERED** that Defendant and his agents, servants, and employees, and those persons or entities in active concert or participation with him 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 extension of credit;
 2. Any person's ability to improve or otherwise affect a consumer's credit record, credit history, credit rating, or ability to obtain credit;
 3. That any person can improve any consumer's credit record, credit history, or credit rating, even where such information is accurate and not obsolete;
- and

or sale of any product, service, plan, or program, are hereby permanently restrained and enjoined from misrepresenting or assisting others in misrepresenting, expressly or by implication, any material fact, including but not limited to:

- 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. The total cost to purchase, receive, or use, or the quantity of the product, service, plan, or program;
- C. Any material restriction, limitation, or condition on purchasing, receiving, or using the product, service, plan, or program;
- D. That any person is affiliated with, endorsed or approved by, or otherwise connected to any other person, government entity, any federal homeowner relief or financial stability program, public, non-profit, or other non-commercial program, or any other program;
- E. That they themselves provide the product, service, plan, or program;
- F. That the United States government or any Federal Homeowner relief or financial stability program has researched, monitored, or vetted, and subsequently approved as legitimate, any product or service; or
- G. Any material aspect of the performance, efficacy, nature, or characteristics of the product, service, plan, or program.

SUBSTANTIATION FOR FINANCIAL BENEFIT, PERFORMANCE, AND EFFICACY CLAIMS

IV. IT IS FURTHER ORDERED that Defendant and his agents, servants, and employees, and those persons or entities in active concert or participation with him 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 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 possesses and relies upon competent and reliable evidence that substantiates that the representation is true.

PROHIBITED TELEMARKETING ACTIVITIES

V. IT IS FURTHER ORDERED that Defendant and his successors, assigns, officers, agents, servants, and employees, and those persons or entities in active concert or participation with him 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 telemarketing, advertising, marketing, promotion, offering for sale, or sale of any good or service, are hereby permanently restrained and enjoined from:

A. Misrepresenting, directly or by implication, any material aspect of the

- B. Disposing of such customer information without written authorization from the Commission; and
- C. Failing to dispose of such customer information in all forms in their possession, custody, or control within thirty (30) days after receipt of written authorization from the Commission. 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.

MONETARY JUDGMENT

VII. IT IS FURTHER ORDERED that:

- A. Defendant shall pay to the Commission the sum of Twenty-One Thousand Seventeen Dollars and Forty-Four Cents (\$21,017.44) in equitable monetary relief. Defendant must make such payment as follows: (i) at least \$6,000 within three months after the date of entry of this Order; (ii) at least \$12,000 within six months after the date of entry of this Order; (iii) at least \$18,000 within nine months after the date of entry of this Order; and (iv) the full \$21,017.44 within eleven months of the date of entry of this Order. Payments shall be made to the Commission by wire transfer in accordance with directions provided by the

Commission, or by certified check or other guaranteed funds payable and delivered to the Commission.

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

COOPERATION WITH FTC

VIII. IT IS FURTHER ORDERED that Defendant shall, in connection with this action or any subsequent investigation or litigation related

however, that this Subpart B shall cease to apply upon entry of final orders regarding all of the defendants in this action.

ORDER ACKNOWLEDGMENTS

IX. IT IS FURTHER ORDERED that Defendant obtain acknowledgments of receipt of this

Order:

- A. Defendant, within seven (7) days of entry of this Order, must submit to the FTC an acknowledgment of receipt of this Order sworn under penalty of perjury.
- B. For three (3) years after entry of this Order, Defendant for any business that Defendant, individually or collectively with any other defendant, is the majority owner or directly or indirectly controls, must deliver a copy of this Order to:
 - (1) all principals, officers, directors, and managers;
 - (2) all employees, agents, and representatives who participate in conduct related to the marketing of any financial good or service, the telemarketing of any good or service, or the acquisition or sale of marketing leads for any good or service; and
 - (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven (7) days of 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 delivered a copy of this Order, he must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

COMPLIANCE REPORTING

- X. IT IS FURTHER ORDERED** that Defendant make timely submissions to the FTC:
- A. One year after entry of this Order, Defendant must submit a compliance report, sworn under penalty of perjury.
1. Defendant must: (a) designate at least one telephone number and an email, physical, and postal address as points of contact, which representatives of the FTC may use to communicate with Defendant; (b) identify all of Defendant's 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; (d) describe in detail whether and how Defendant 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 FTC;
2. Additionally, Defendant must: (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 performs services whether as an employee or otherwise and any entity in which Defendant has any ownership interest; and (c) describe in detail Defendant's involvement in each such

business, including title, role, responsibilities, participation, authority, control, and any ownership.

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

1. Defendant must report any change in: (a) any designated point of contact; (b) the structure of any entity that Defendant has any ownership interest in

- D. Any submission to the FTC required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 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 FTC representative in writing, all submissions to the FTC 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 FTC, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin:

- 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 or 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, the telemarketing of any good or service, or the acquisition or sale of marketing leads for any good or service.

COMPLIANCE MONITORING

XII. IT IS FURTHER ORDERED that, for the purpose of monitoring Defendant's compliance with this Order:

- A. Within 14 days of receipt of a written request from a representative of the FTC, Defendant 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 FTC 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.

SO STIPULATED AND AGREED:

FOR DEFENDANT JOSEPH SHAMOLIAN:



Joseph Shamolian, Defendant



Cleveland, Ohio 44124

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