

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

Case No. 6:19-cv-01028-PGB-LRH

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

FIRST CHOICE HORIZON LLC, a Florida
limited liability company,

FIRST SOUTHERN TRUST LLC, a Florida
limited liability company,

FIRST UNITED MUTUAL LLC, a Florida
limited liability company,

PREMIER UNION TRUST LLC, also dba
SECOND CHOICE HORIZON, a Florida limited
liability company,

SOUTH PREMIER TRUST LLC, a Florida
limited liability company,

SUNCOAST MUTUAL LLC, a Florida limited
liability company,

UNITED CHOICE PLUS LLC, a Florida limited
liability company,

SOUTHERN CHOICE LLC, a Florida limited
liability company,

SOUTHERN PRIDE LLC, a Florida limited
liability company,

SUN PREMIER LLC, a Florida limited liability
company,

STIPULATED ORDER FOR
PERMANENT INJUNCTION AND
MONETARY JUDGMENT

order (“TRO”) with asset freeze, appointment of receiver, and other equitable relief against Defendants First Choice Horizon LLC, First Southern Trust LLC, First United Mutual LLC, Premier Union Trust LLC, South Premier Trust LLC, Suncoast Mutual LLC, Raymond Gonzalez, Carlos S. Guerrero, and Joshua Hernandez [Dkt. No. 12]. On June 27, 2019, the Court entered a Stipulated Preliminary Injunction against Defendants First Choice Horizon LLC, First Southern Trust LLC, First United Mutual LLC, Premier Union Trust LLC, South Premier Trust LLC, Suncoast Mutual LLC, Raymond Gonzalez, Carlos S. Guerrero, and Joshua Hernandez [Dkt. No. 28]. On December 12, 2019, the Court entered an Amended Stipulated Preliminary Injunction against all Defendants [Dkt. No. 77].

The Commission and Defendants stipulate to the entry of this Order for Permanent Injunction and Monetary Judgment (“Order”) to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants participated in deceptive and unfair acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, and the Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310. The Complaint charges that since at least May 2016, Defendants have engaged in a telemarketing scheme that defrauds financially distressed consumers by selling a bogus credit card interest rate reduction service (“Defendants’ service” or “service”). The Complaint further charges that Defendants sell their service by making deceptive guarantees that, for a fee, they will lower consumers’

credit card interest rates to zero percent for the life of their credit card debt and thereby save the consumers thousands of dollars. The Complaint also charges that Defendants apply for credit cards without consumers' knowledge, authorization, or express informed consent.

3. Defendants neither admit nor deny any of the allegations in the First Amended Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendants admit the facts necessary to establish jurisdiction.

4. Defendants waive any claim that they may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agree to bear their own costs and attorney fees.

5. Defendants and the Commission waive all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

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

A. **“Assisting Others”** includes:

1. performing customer service functions, including receiving or responding to consumer complaints;

2. formulating or providing, or arranging for the formulation or provision of, any advertising or marketing material, including any telephone sales script, direct mail solicitation, or the design, text, or use of images of any Internet website, email, or other electronic communication;

3. formulating or providing, or arranging for the formulation or provision of, any marketing support material or service, including web or Internet Protocol addresses or

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

4. providing names of, or assisting in the generation of, potential customers; or
5. performing marketing, billing, or payment services of any kind.

B. **“Clear(ly) and conspicuous(ly)”** means that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:

1. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be presented simultaneously in both the visual and audible portions of the communication even if the representation requiring the disclosure is made in only one means.
2. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.
3. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.
4. In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.

5. The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the disclosure appears.
6. The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.
7. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.
8. When the representation or sales practice targets a specific audience, such as

who receive actual notice of this Order, whether directly or indirectly, in connection with the advertising, marketing, promoting, offering for sale, or selling of any Product or Service, are permanently restrained and enjoined from:

A. Misrepresenting, or Assisting Others in misrepresenting, expressly or by implication, any of the following:

1. The total cost to purchase, receive, use the Product or Service;
2. That consumers have ordered Defendants' Product or Service;
3. That consumers owe money to Defendants for Defendants' Product or Service;
4. The terms or rates that are available for

V

~~REDACTED~~

~~That~~ Defendants, Defendants' officers, agents, employees, and attorneys, and all other Persons ~~active~~ in concert or participation with any of them, who receive actual notice of this Order,

- B. Submitting any application for any products or service on behalf of any consumers if Defendants know or have reason to believe that any information on such application is false or misleading.

VI. PROHIBITED PAYMENT AND BILLING PRACTICES

IT IS FURTHER ORDERED that the Defendants, Defendants' agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with promoting or offering for sale any products or service, are permanently restrained and enjoined from:

- A. Obtaining payment by taking a cash advance against a consumer's credit card; and
- B. Causing billing information to be submitted for payment without first having obtained the consumer's express written consent to submit such billing information for payment.

VII. MONETARY JUDGMENT AND PARTIAL SUSPENSION

IT IS FURTHER ORDERED that:

- A. Judgment in the amount of Thirteen Million Eight Hundred Eighty-One Thousand Eight Hundred Sixty Five Dollars (\$13,881,865) is entered in favor of the Commission against Defendants, jointly and severally, as equitable monetary relief.
- B. Defendants are ordered to transfer and/or take all necessary steps to transfer all assets identified in Sections VII.C - VII.H and shall cooperate fully and take such

1. Branch Banking and Trust Company, its parent corporation, subsidiaries, principals, and agents, shall transfer a

- e. in the name of CSG Solutions, including but not limited to the frozen accounts ending in x1355 and x1368.
 5. TD Bank, its parent corporation, subsidiaries, principals, and agents, shall transfer all funds held in the name of Raymond Gonzalez, including but not limited to the frozen accounts ending in x9131 and x5731.
 6. USAA Federal Savings Bank, its parent corporation, subsidiaries, principals, and agents, shall transfer all funds held in the name of Joshua Hernandez, including but not limited to the frozen accounts ending in x7142.
 7. Citizens Bank, its parent corporation, subsidiaries, principals, and agents, shall transfer all funds held:
 - a. in the name of Carlos Guerra, including but not limited to the frozen account ending in x8240;
 - b. in the name of CSG Entertainment, including but not limited to the frozen account ending in x3801;
 - c. in the name of El Lake House LLC, including but not limited to the frozen account ending in x4601; and
 - d. in the name of Joshua Hernandez, including but not limited to the frozen account ending in x7840.
 8. McCoy Federal Credit Union, its parent corporation, subsidiaries, principals, and agents, shall transfer all funds held in name of Joshua Hernandez, including but not limited to the frozen account ending in x0100.
- E. Defendant Raymond Gonzalez is ordered to pay the Commission Nine Thousand

Dollars (\$9,000.00), which as Defendant Gonzalez stipulates, his undersigned counsel holds in escrow for no purpose other than payment to the Commission. Such payment must be made within 7 days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission.

F. Defendant Raymond Gonzalez shall deliver to the Receiver, or his designated agent, within (7) days of entry of this Order to the extent he has not already done so, possession of the following personal property hereinafter "Gonzalez's Personal Property"):

1. 2004 Yamaha jet ski, with title papers, license plate, registration certificate, and proof of insurance;
2. 2005 Yamaha jet ski with title papers, license plate, registration certificate, and proof of insurance;
3. Jet ski double trailer;
4. ev q J 0JTwhenEj 0ch8-Pd<</MCID 12 >>BDC 0 Tc 0 4w -1.5 -2.34.

Gonzalez's sworn financial statement dated May 1, 2020).

The Receiver may abandon any particular item(s) of Gonzalez's Personal Property, in his discretion, if he believes such item(s) to have no legitimate economic value. Upon taking possession of Gonzalez's Personal Property, the Receiver shall market it for sale and sell it. From the proceeds of the sale, the Receiver shall pay all costs of sale customarily paid by a seller of personal property, to include all amounts owed on any liens against Gonzalez's Personal Property. All sale proceeds remaining shall be transferred to the Commission or its designated agent in accordance with the Section XI. Defendant Gonzalez and his spouse, if applicable, shall assist the Receiver with respect to marketing and selling Gonzalez's Personal Property by providing to the Receiver all pertinent information, and by executing such title papers and documents necessary to transfer title. In the event the Receiver chooses to employ an auctioneer or other professional to assist with the marketing and sale of Gonzalez's Personal Property, this order shall in the Receiver full authority to do so, and any auctioneer or other professional hired by the Receiver to assist with the marketing or sale of Gonzalez's Personal Property shall take direction solely from the Receiver.

- G. At the direction of the Receiver, Defendant Joshua Hernandez shall liquidate all of his stock holdings in Apple, Inc., Netflix and Blackberry Ltd., through his existing brokerage account(s). The proceeds realized upon the sale of the stock, less customary brokerage fees, shall be paid immediately to the Commission or its designated agent in accordance with Section XI.

H. Defendant Carlos Guerrero shall transfer and assign all of his right, title, and interest in and to stock or any ownership in Bavic Realty Corporation ("Bavic"), whether real or personal, to the Receiver in his direction or to his designated agent. Defendant Guerrero shall further transfer and assign to the Receiver any and all right, title, and interest he has in the Real Property located at 9E 193 Street, Bronx, NY 10468 ("Guerrero Property"). This shall include all rights of possession, income generated from said Guerrero Property, and any proceeds generated from the sale thereof. This shall further include all rights whether held directly or indirectly. The Receiver may abandon said Guerrero Property, in his discretion, if he belie

sale of the Guerrero Property, this order vests in the Receiver full authority to do so, and any real estate broker, auctioneer, or other professional hired by the Receiver to assist with the marketing or sale of Guerrero Property shall take direction solely from the Receiver.

- I. In the event that it is necessary to execute additional documents to transfer or liquidate assets of the Defendants under this

4. the Financial Statement of Corporation Defendant First Choice Horizon LLC signed by Raymond Hernandez, Owner, on May 20, 2020, including the attachments;
5. the Financial Statement of Corporation Defendant First Southern Trust LLC signed by Xiomarie Gonzalez, Owner, on May 20, 2020, including the attachments;
6. the Financial Statement of Corporation Defendant First United Mutual LLC signed by Carlos Guerrero, Owner and President, on May 20, 2020, including the attachments;
7. the Financial Statement of Corporation Defendant Premier Union Trust LLC signed by David Maisonet, Owner, on May 20, 2020, including the attachments;
8. the Financial Statement of Corporation Defendant South Premier Trust LLC signed by Joshua Hernandez, Owner, on May 20, 2020, including the attachments;
9. the Financial Statement of Corporation Defendant Suncoast Mutual LLC signed by Jenesis Hernandez, Owner, on May 21, 2020, including the attachments;
10. the Financial Statement of Corporat

by Joann Sulzona Albert on June 5, 2020, including the attachments;

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 law, regulation, or court order.

X. PROHIBITION AGAINST COLLECTING ON ACCOUNTS

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with them, who receive actual notice of this Order, whether acting directly or indirectly, are permanently restrained and enjoined from attempting to collect, collecting, or assigning any right to collect payment from any consumer who purchased or agreed to purchase any Debt-Relief Product or Service from any Defendant.

XI. RECEIVERSHIP

IT IS FURTHER ORDERED that:

- A. Except as modified by this Section of the Final Order, the receivership imposed by this Court shall continue in the manner set forth in the Amended Preliminary Injunction Order entered in this matter on December 12, 2020. [Dkt. 77]. Mark Bernet shall continue his duties as the Receiver of the Receivership and shall serve as the Liquidation Receiver regarding the non-liquid assets of Individual Defendants Raymond Gonzalez, Carlos Guerrero, and Joshua Hernandez.
- B. The Receiver shall take all necessary steps to wind down the affairs of the Corporate Defendants.

- C. The Receiver shall forthwith take all steps necessary to liquidate the assets of the Corporate Defendants and those assets that are surrendered pursuant to Section VII.F – VII.H of this Order and, after such liquidation, shall promptly remit the net proceeds of any asset of Individual Defendants to the Commission as payment toward the monetary judgment entered against Defendants. The Receiver is authorized to withhold a reasonable sum, not to exceed ten (10) percent of the net proceeds of the sale of any non-liquid assets surrendered pursuant to Section VII.F – VII.H as cost, fees, and expenses.
- D. The Receiver shall continue to be entitled to compensation for the performance of his duties pursuant to this Order from assets of the Corporate Defendants, at the billing rate previously agreed to by the Receiver. Within ninety (90) days after entry of this Order, and every sixty (60) days thereafter, the Receiver shall file with the Court a report detailing the action he has taken to wind down the affairs, marshal and liquidate receivership assets and those assets that are surrendered pursuant to Section VII.H - VII.J of this Final Order, shall account for all assets marshaled, and shall submit any request for payment of reasonable compensation.
- E. The Receiver shall file his Final Report within one hundred eighty (180) days after entry of this Final Order, unless this time is extended by the Court for good cause. Any party or the Receiver may request that the Court extend the Receiver's term for good cause. Upon approval of the Receiver's final report and request for payment, the receivership shall be terminated and all funds remaining after payment of the Receiver's final approved payment shall be remitted immediately to the FTC or its

designated representative in partial satisfaction of the judgment pursuant to Section VII of this Final Order.

- F. Any and all uncollected judgments obtained for the benefit of the Defendants shall be assigned to the Commission for further collection efforts.

XII. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendants obtain acknowledgments of receipt of this Order:

- A. Each Defendant, within 7 days of entry of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.
- B. For 20 years after entry of this Order, each Individual Defendant for any business that such Defendant, individually or collectiv

is an employee without any ownership or c

provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

2. Additionally, each Individual Defendant

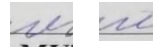
A. accounting records showing the revenues fr

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.

SO ORDERED this ___ day of _____, 2020.

PAUL G. BYRON
UNITED STATES DISTRICT JUDGE

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