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SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION, BURLINGTON COUNTY
DOCKET NO. BUR-C-92-20

GURBIR S. GREWAL, Attorney General of the State of New Jersey, PAUL R. RODRÍGUEZ, Director of the New Jersey Division of Consumer Affairs, and MARLENE CARIDE, Commissioner of the New Jersey Department of Banking and Insurance,

Plaintiffs,

v.

FINANCIAL SERVICES FOR AMERICA, an NJ Nonprofit Corporation, FINANCIAL PROCESSING SERVICES, LLC, TRI-STATE FINANCIAL RELIEF, LLC, MORTGAGE HELP AND LOAN AUDITS OF AMERICA, LLC, NEAL J. VANDERPOEL II a/k/a Jimmy Vanderpoel a/k/a Neal Van a/k/a Neal Vanderpoel, Sr., EILEEN P. VANDERPOEL, a/k/a Eileen Van, NEAL J. VANDERPOEL IV a/k/a Neal Van a/k/a Neal Vanderpoel, Jr., RYAN VANDERPOEL a/k/a Ryan Van, JANE and JOHN DOES 1-10, individually and as owners, officers, directors, founders, members, managers, agents, employees, servants, representatives, and/or independent contractors of FINANCIAL SERVICES FOR AMERICA, an NJ Nonprofit Corporation FINANCIAL PROCESSING SERVICES, LLC, TRI-STATE FINANCIAL RELIEF, LLC, and MORTGAGE HELP AND LOAN AUDITS OF AMERICA, LLC, and XYZ CORPORATIONS,

Defendants.

Civil Action

**CONSENT ORDER
WITH TEMPORARY
RESTRAINTS
PURSUANT TO R. 4:52**

THIS MATTER being brought before the Court by Garen Gazaryan and Donna J. Dorgan, Deputy Attorneys General, attorneys for Plaintiffs, Gurbir S. Grewal, Attorney General of the State of New Jersey; Paul R. Rodríguez, Director of the New Jersey Division of Consumer Affairs; and Marlene Caride, Commissioner of the New Jersey Department of Banking and Insurance (collectively, “Plaintiffs”), seeking relief by way of temporary restraints pursuant to R. 4:52, based upon facts set forth in the Verified Complaint and supporting Certifications and Memorandum of Law filed herewith; and Mark K. Smith, Esq., attorney for the Defendants, appearing on behalf of all Defendants; and it appearing that Defendants consented to Plaintiffs’ application, and for good cause shown.

IT IS on this 6th day of January 2021

ORDERED AND AGREED that Financial Services For America, a nonprofit corporation, Financial Processing Services, LLC, Tri-State Financial Relief, LLC, Mortgage Help and Loan Audits of America, LLC (collectively referred to as the “Corporate Defendants”) and Neal J. Vanderpoel II, Eileen P. Vanderpoel, Neal J. Vanderpoel IV, and Ryan Vanderpoel (collectively referred to as the “Individual Defendants; and the Corporate Defendants and Individual Defendants, together, referred to collectively as the “Defendants”) appear and show cause before the Superior Court, Chancery Division, General Equity Part, at the Burlington County Olde Courthouse, 120 High Street, 1st Floor, Mount Holly, New Jersey 08060 at 9:00 a.m. noon or as soon thereafter as counsel can be heard, on the 19th day of February, 2021, why an Order should not be issued preliminarily enjoining and restraining Defendants from:

- A. Engaging in, continuing to engage in, or doing any acts or practices in violation of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 to -226 (“CFA”), and the regulations promulgated thereunder, specifically the Regulations Governing General Advertising, N.J.A.C. 13:45A-9.1 to -9.8 (“Advertising

Regulations”), the Debt Adjustment and Credit Counseling Act (“Debt Adjustment Act”), N.J.S.A. 17:16G-1 to -9 and the regulations promulgated there under; and the New Jersey Nonprofit Corporation Act (“Nonprofit Corporation Act”), N.J.S.A. 15A:1-1 to -16.2, including, but not limited to, the acts and practices alleged in the Verified Complaint;

- B. Engaging in the sale and/or performance of any loan modification services, debt adjustment services, mortgage loan compliance analysis report products/services, and/or any forensic audit services/products, in the State of New Jersey (“New Jersey”);
- C. Engaging in the advertisement, offering for sale and sale of any loan modification services, debt adjustment services, mortgage loan compliance analysis report products/services, and/or any forensic audit services/products, whether through their Internet websites (including <https://Fs4a.co> & <https://tri-state-financial-services.business.site/> (together, “Defendants’ Websites”)), or through any other Internet websites, social media accounts, direct mailings, publications (e.g., newspapers, magazines, circulars), unsolicited telephone calls and/or door-to-door sales to consumers within New Jersey and from collecting, receiving or otherwise accepting any payments or fees for such services or products;
- D. Removing, selling, encumbering, transferring or engaging in any act of disposition of any of Defendants' assets that directly or indirectly relate to the subject matter of the Verified Complaint, including, but not limited to, all deposits or monies paid by consumers for any loan modification services, debt adjustment services, mortgage loan compliance analysis report products/services, and/or any forensic audit services/products;
- E. Preventing Defendants from engaging in any act of disposition of assets, avoiding transfers between Defendants, and permitting an attachment against all transferred assets, as is necessary to restore to any person in interest any moneys or property which may have been acquired by means of any practice declared to be unlawful, in accordance with N.J.S.A. 56:8-8;
- F. Destroying, concealing, altering, transferring, disposing, removing or otherwise failing to maintain and/or keep in any manner, directly or indirectly, any books or records, information stored in computer-maintained form (such as electronic mail) and any other “document,” as that term is defined in R. 4:18-1(a), in their possession, subject to their control or available to them, that directly or indirectly relate to the advertisement, offering for sale, sale and/or performance of any loan modification services, debt adjustment services, mortgage compliance analysis report products/services, and/or forensic audit services/products in New Jersey; and

- G. Using fictitious names or conducting business under unregistered assumed names in violation of N.J.S.A. 56:1-2, the CFA, or the Nonprofit Corporation Act, N.J.S.A. 15A:2-3a.

AND IT IS FURTHER ORDERED AND AGREED that on the return date herein,

Defendants appear and show cause why an Order should not be issued:

- A. Preliminarily appointing a Receiver, at Defendants' expense, in accordance with N.J.S.A. 56:8-8 and 56:8-9 and the Nonprofit Corporation Act, N.J.S.A. 15A:14-2, to assume control over the assets of the Corporate Defendants, render a full accounting and thereafter sell and/or convey such assets under the direction of the Court in order to restore any person who has suffered damages, whether named in the Verified Complaint or not, as a result of the unlawful acts of Defendants;
- B. Preliminarily freezing all assets of the Corporate Defendants in which they hold a legal or equitable interest including, but not limited to, real property, securities, bonds, notes and monies held in any of their bank accounts, money market accounts, certificates of deposit or safe deposit boxes or held in petty cash, to prohibit them from engaging in any act of disposition, transfer or alienation. Such assets include, but are not limited to, all accounts held by the Corporate Defendants at T.D. Bank, N.A., and Bank of America, N.A.;
- C. Preventing any third party receiving a copy of the Order from removing, selling, encumbering, assigning, transferring or engaging in other acts of disposition of any assets subject to the asset freeze referenced in subpart B immediately above;
- D. Directing Defendants, or any third party receiving a copy of this Order, to arrange for the shutdown of Defendants' Websites within seven (7) days of being served with the Order;
- E. Continuing any temporary injunctive and ancillary relief already ordered by the Court;
- F. Requiring that any and all additional checks, cash, money orders or other forms of payment that Defendants receive from consumers after the date of this Order shall not be deposited and shall be retained by Defendants pending further agreement by the parties or by further Order of the Court; and
- G. Granting such other relief as the Court deems equitable and just.

AND IT IS FURTHER ORDERED AND AGREED by the *Plaintiffs, through their counsel, and by the Defendants, through their counsel*, that pending the return date herein,

Defendants are temporarily enjoined and restrained from:

- A. Engaging in, continuing to engage in, or doing any acts or practices in violation of the CFA, N.J.S.A. 56:8-1 to -226, the Advertising Regulations, N.J.A.C. 13:45A-9.1 to -9.8, the Debt Adjustment Act, N.J.S.A. 17:16G-1 to -9 and the regulations promulgated there under; and the Nonprofit Corporation Act, N.J.S.A. 15A:1-1 to -16.2, including, but not limited to, the acts and practices alleged in the Verified Complaint;
- B. Engaging in the advertisement, offering for sale and sale of any loan modification services, debt adjustment services, mortgage loan compliance analysis report products/services, and/or any forensic audit services/products, whether through Defendants' Websites or through any other Internet websites, social media accounts, direct mailings, publications (e.g., newspapers, magazines, circulars), unsolicited telephone calls, and/or door-to-door sales to consumers within New Jersey and from collecting, receiving or otherwise accepting any payments or fees for such services or products;
- C. Removing, selling, encumbering, transferring or engaging in any act of disposition of any of Defendants' assets that directly or indirectly relate to the subject matter of the Verified Complaint including, but not limited to, all deposits or monies paid by consumers for any loan modification services, debt adjustment services, mortgage loan compliance analysis report products/services, and/or any forensic audit services/products, except as reasonable and necessary for Individual Defendants' living expenses only, subject to review by the Court;
- D. Destroying, concealing, altering, transferring, disposing removing or otherwise failing to maintain and/or keep in any manner, directly or indirectly, any books or records, information stored in computer-maintained form (such as electronic mail) and any other "document," as that term is defined in R. 4:18-1(a), in their possession, subject to their control or available to them, that directly or indirectly relate to the advertisement, offering for sale, sale and/or performance of loan modification services, debt adjustment services, mortgage loan compliance analysis report products/services, and/or any forensic audit services/products in New Jersey;
- E. Using fictitious names or conducting business under unregistered assumed names in violation of N.J.S.A. 56:1-2, the CFA, or the Nonprofit Corporation Act, N.J.S.A. 15A:2-3a; and
- F. Forming or incorporating any new limited liability company, nonprofit corporation, corporation, or partnership.

AND IT IS FURTHER ORDERED AND AGREED by the Plaintiffs, through their

counsel, and by the Defendants, through their counsel, that pending the return date herein:

- A. All assets of any Corporate Defendant(s) in which they hold a legal or equitable interest including, but not limited to, real property, securities, bonds, notes and monies held in any of their bank accounts, money market accounts, certificates of deposit or safe deposit boxes or held in petty cash, are frozen and Corporate Defendants are prevented from removing, selling, encumbering, assigning, transferring or engaging in other acts of disposition of any such assets. Such assets include, but are not limited to, all accounts held by the Defendants at T.D. Bank, N.A., and Bank of America, N.A., except for the \$5,000 check to Mark Smith, Esq., check no. 5052 from the Financial Services For America account ending in #9955 at TD Bank which is to be used for legal services related to this matter; in the event the Defendants retain or substitute counsel, then any unearned retainer shall be transferred to substituted counsel for services related to this matter only;
- B. Defendants are prevented from removing, selling, encumbering, transferring or engaging in any act of disposition of any of Defendants' assets that directly or indirectly relate to the subject matter of the Verified Complaint, including, but not limited to, all deposits or monies paid by consumers for any loan modification services, debt adjustment services, mortgage loan compliance analysis report products/services, and/or any forensic audit services/products, except as reasonable and necessary for Individual Defendants' living expenses only, subject to review by the Court;
- C. Defendants and any third party with written notice of this Order are prevented from removing, selling, encumbering, assigning, transferring or engaging in other acts of disposition of any such assets subject to provisions of subparts A and B immediately above, except as reasonable and necessary for Individual Defendants' living expenses only, subject to review by the Court;
- D. Within three (3) days of being served with this Order, each of the Defendants shall provide to Plaintiffs' attorneys a list of all New Jersey consumers for whom Defendants have sold or performed any loan modification services, debt adjustment services, mortgage loan compliance analysis report products/services, and/or any forensic audit services/products from January 1, 2017 until present. For all these consumers identified, Defendants shall disclose the consumers' names, addresses, email addresses, telephone numbers, fees contracted for, and fees actually collected;
- E. By January 19, 2021, Defendants shall supplement the list referenced in subpart D immediately above and shall provide the supplemented list to Plaintiffs' attorneys. Defendants shall supplement the list with the following additional information: current status of each transaction, and the mortgage modification result, if any, obtained by Defendants; Plaintiffs reserve the right to request production of all underlying documentation either through discovery

or by further Order of the Court as circumstances warrant;

- F. Defendants shall send notice to all current clients, that they have ceased business, and the language of the notice shall be agreed upon with Plaintiffs and sent within fifteen (15) days; and
- G. Any and all additional checks, cash, money orders or other forms of payment that Defendants receive from consumers after the date of this Order shall not be deposited and shall be retained by Defendants pending further agreement by the parties or by further Order of the Court.

AND IT IS FURTHER ORDERED AND AGREED that:

1. Defendants' counsel, Mark K. Smith, Esq., has accepted service on behalf of all Defendants of the proposed Order to Show Cause, Verified Complaint, Memorandum of Law, and Certifications submitted in support of this application, and will execute an Acknowledgment of Service.

2. Defendants shall file and serve a written response to this Order to Show Cause and the request for entry of injunctive relief and proof of service by January 19, 2021. The original documents must be filed with the Clerk of the Superior Court in the county listed above. A list of these offices is available in the Civil Division Management Office in the county listed above and online at njcourts.gov/forms/10153_deptyclerklawref.pdf. You must send a copy of your opposition papers directly to Hon. Paula T. Dow, P.J.Ch., whose address is Superior Court of New Jersey, Chancery Division, General Equity Part, Burlington County, Olde Courthouse, 120 High Street, 1st Floor, Mount Holly, NJ 08060. You must also send a copy of your opposition papers to the Plaintiffs' attorney whose name and address appears above, or to the Plaintiffs, if no attorney is named above. A telephone call will not protect your rights; you must file your opposition and pay the required fee of \$175.00 and serve your opposition on your adversary, if you want the court to hear your opposition to the injunctive relief the Plaintiffs are seeking.

5. Plaintiffs must file and serve any written reply to the Defendants' Order to Show Cause opposition by January 29, 2021. The reply papers must be filed with the Clerk of the Superior Court in the county listed above and a copy of the reply papers must be sent directly to the chambers of Hon. Paula T. Dow, P.J.Ch.

6. If Defendants do not file and serve opposition to this Order to Show Cause, Plaintiffs' application will be decided on the papers on the return date and relief may be granted by default, provided that Plaintiffs file a proof of service and a proposed form of Order at least three (3) days prior to the return date.

7. If Plaintiffs have not already done so, a proposed form of Order addressing the relief sought on the return date (along with a self-addressed return envelope with return address and postage) must be submitted to the Court no later than three (3) days before the return date.

8. Defendants take notice that the Plaintiffs have filed a lawsuit against you in the Superior Court of New Jersey. The Verified Complaint attached to this Order to Show Cause states the basis of the lawsuit. If you dispute this Complaint, you, or your attorney, must file a written Answer to the Complaint and proof of service within thirty-five (35) days from the date of service of this Order to Show Cause; not counting the day you received it.

These documents must be filed with the Clerk of the Superior Court in the county listed above. A directory of these offices is available in the Civil Division Management Office in the county listed above and online at njcourts.gov/forms/10153_deptyclerklawref.pdf. Include a \$175 filing fee payable to the "Treasurer, State of New Jersey." You must also send a copy of your Answer to the Plaintiffs' attorneys whose name and address appear above, or to the Plaintiffs, if no attorney

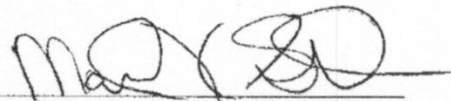
is named above. A telephone call will not protect your rights; you must file and serve your Answer (with the fee) or judgment may be entered against you by default. Please note: Opposition to the Order to Show Cause is not an Answer and you must file both. Please note further: if you do not file and serve an Answer within thirty-five (35) days of this Order, the Court may enter a default against you for the relief Plaintiffs demand.

9. If you cannot afford an attorney, you may call the Legal Services office in the county in which you live or the Legal Services of New Jersey Statewide Hotline at 1-888-LSNJ-LAW (1-888-576-5529). If you do not have an attorney and are eligible for free legal assistance you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A directory with contact information for local Legal Services Offices and Lawyer Referral Services is available in the Civil Division Management Office in the county listed above and online at njcourts.gov/forms/10153_deptyclerklawref.pdf.

10. The Court will entertain argument, but not testimony, on the return date of the Order to Show Cause, unless the Court and parties are advised to the contrary no later than 3 days before the return date.

/S/ Paula T. Dow
Paula T. Dow, P.J.Ch.

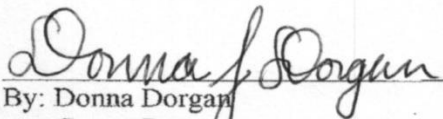
CONSENTED TO AS TO FORM, CONTENT AND ENTRY:



Mark K. Smith, Esq.
Law Offices of Mark K. Smith, LLC
(on behalf of Defendants)

Date: 1/5/2021

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Plaintiffs



By: Donna Dorgan
Garen Gazaryan
Deputy Attorneys General

Date: 1/5/2021