

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 14-23879-CIV-ALTONAGA/O'Sullivan

FEDERAL TRADE COMMISSION,

Plaintiff,
vs.

CENTRO NATURAL CORP., *et al.*,

Defendants, and

BIONORE, INC., *et al.*,

Relief Defendants.

**STIPULATED ORDER FOR PERMANENT INJUNCTION AND MONETARY
JUDGMENT AS TO DEFENDANTS CAROLINA ORELLANA, DAMIAN BIONDI AND
RELIEF DEFENDANT BIONORE INC.**

Plaintiff, the Federal Trade Commission (“FTC”) filed its First Amended Complaint [ECF No. 14] for a permanent injunction and other equitable relief in this matter, pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b) and 57b, Section 814 of the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692l, and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101–6108. The FTC and Defendants Carolina Orellana, Damian Biondi and Relief Defendant Bionore Inc. (collectively, “Orellana Defendants”) stipulate to the entry of this Stipulated 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 First Amended Complaint charges the Defendants participated in deceptive acts or practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a); the FDCPA, 15 U.S.C. §§ 1692–1692p; and the FTC’s Trade Regulation Rule entitled “Telemarketing Sales Rule,” 16 C.F.R. Part 310.
3. The Orellana 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, the Orellana Defendants admit the facts necessary to establish jurisdiction.
4. The Orellana Defendants waive any claim 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. The Orellana Defendants waive all rights to appeal or otherwise challenge or contest the validity of this Order.

I. DEFINITIONS

1. **“Debt Collection Activities”** means any activities of a Debt Collector to collect or attempt to collect, directly or indirectly, a debt owed or due, or asserted to be owed or due, another.
2. **“Debt Collector”** means any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. The term also includes any creditor who, in the process of collecting its own debts, uses any name other than its own which would indicate that a third person is collecting or attempting to collect such debts. The

term also includes any person to the extent such person receives an assignment or transfer of a debt in default solely for the purpose of facilitating collection of such debt.

3. **“Defendants”** means Defendants Centro Natural Corp., Sumore, L.L.C., Javier Sumbre, Jessica Anzola, Carolina Orellana, Damian Biondi, Susana Sumbre, individually, collectively, or in any combination.

4. **“FTC”** means the Federal Trade Commission.

5. **“Orellana Defendants”** means Defendant Carolina Orellana, Defendant Damian Biondi, and Relief Defendant Bionore Inc., individually, collectively, or in any combination.

6. **“Receiver”** means Scott Dimond, appointed in Section XIII of the Preliminary Injunction [ECF No. 152], and any deputy receivers that shall be named by Mr. Dimond.

7. **“Telemarketing”** means any plan, program, or campaign that is conducted to induce the purchase of goods or services or a charitable contribution by use of one or more telephones.

II. BAN REGARDING DEBT COLLECTION ACTIVITIES

IT IS HEREBY ORDERED that Carolina Orellana and Damian Biondi are permanently restrained and enjoined from engaging in Debt Collection Activities or assisting others engaged in Debt Collection Activities, whether directly or through an intermediary.

III. BAN ON TELEMARKETING

IT IS FURTHER ORDERED that Carolina Orellana and Damian Biondi are permanently restrained and enjoined from engaging in Telemarketing or assisting others engaged in Telemarketing, whether directly or through an intermediary.

IV. PROHIBITION AGAINST MISREPRESENTATIONS

IT IS FURTHER ORDERED that Carolina Orellana, Damian Biondi 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, whether acting directly or indirectly, in connection with promoting or offering for sale any good or service are permanently restrained and enjoined from misrepresenting or assisting others in misrepresenting, expressly or by implication:

- (1) that a consumer is delinquent on a debt;
- (2) that a consumer has a legal obligation to pay or settle a debt ;
- (3) affiliation with government entities;
- (4) status as an attorney or as an employee of a law firm;
- (5) that a consumer will be arrested or reported to a law enforcement agency;
- (6) that a legal action has been filed or is about to be filed against the consumer; or
- (7) any other fact material to consumers concerning any good or service, such as the total costs; any material restrictions, limitations, or conditions; or any material aspect of its performance, efficacy, nature, or central characteristics.

V. MONETARY JUDGMENT AND PARTIAL SUSPENSION

IT IS FURTHER ORDERED that:

- A. Judgment in the amount of **three million dollars (\$3,000,000)** is entered in favor of the FTC against Defendants Carolina Orellana and Damian Biondi, jointly and severally, as equitable monetary relief. Furthermore, judgment in the amount of **one hundred and seventy three thousand dollars (\$173,000)** is entered against Relief Defendant Bionore Inc.

B. Effective upon entry of this Order, the Orellana Defendants shall surrender to the Receiver all control, title, dominion, and interest in the assets listed below:

1. all funds held by Citibank in the name of any of the Orellana Defendants, including the accounts ending in 3384 and 2749;
2. all funds held by Bank of America in the name of any of the Orellana Defendants, including the accounts ending in 7002, 1209 and 1212;
3. all funds held by PNC Bank in the name of any of the Orellana Defendants, including the account ending in 1044; and
4. the properties located at (a) 871 NE 207th Lane #102, Miami, FL; (b) 439 NE 210th Terrace #101-22, Miami FL 33179; (c) 442 NE 210th Circle Terrace # 104-5, Miami, FL 33179; (d) 20910 NE 8th Court #104-22, Miami, FL 33179; and (e) 902 NE 209th St. Apt. 104 Miami, FL 33179.

C. The Orellana Defendants represent they have the power and authority to transfer promptly to the Receiver titles that are free and clear of encumbrances for all the properties listed in Section V.B.4 to ensure that the Receiver becomes the sole owner of these properties.

D. Effective upon entry of this Order, the following shall occur:

1. The Receiver shall as soon as reasonably practicable put the properties listed in Section V.B.4 for sale and pay to the FTC all sale proceeds, net of costs and fees. The Receiver shall also transfer the funds listed in Section V.B.1–3, net fees and costs, to the FTC as soon as reasonably practicable.
2. The Orellana Defendants shall promptly provide the Receiver with all documents and signatures the Receiver may deem necessary to execute the

sale of the properties listed in Section V.B.4 and otherwise cooperate with the Receiver to allow the Receiver to sell these properties as soon as reasonably practicable.

E. Upon complete payment and transfer of all assets listed in Section V.B above, the remainder of the judgment is suspended, subject to Section V.F–H, directly below.

F. The FTC's agreement to the suspension of part of the judgments is expressly premised upon the truthfulness, accuracy, and completeness of Carolina Orellana and Damian Biondi's sworn Financial Statements and related documents (collectively, "financial representations") submitted to the FTC, namely:

1. the Financial Statement of Carolina Orellana signed on 3/12/2015; and
2. the Financial Statement of Damian Biondi signed on 3/12/2015.

G. The suspension of the judgments will be lifted as to the Orellana Defendants if, upon motion by the FTC, the Court finds that the Orellana Defendants failed to disclose any material asset, materially misstated the value of any asset, or made any other material misstatement or omission in the financial representations identified above.

H. If the suspension of the judgments is lifted, the judgments become immediately due as to the Orellana Defendants in the amounts specified in Section V.A (which the parties stipulate only for purposes of this Section represents the consumer injury resulting from the Orellana Defendants' violations alleged in the First Amended Complaint), less any payment previously made pursuant to this Section, plus interest computed from the date of entry of this Order.

VI. ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

- A. The Orellana Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.
- B. The facts alleged in the First Amended Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the FTC, including in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.
- C. The facts alleged in the First Amended Complaint establish all elements necessary to sustain an action by the FTC pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.
- D. The Orellana Defendants acknowledge their Taxpayer Identification Numbers (Social Security Numbers or Employer Identification Numbers), which the Orellana Defendants previously submitted to the FTC, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. §7701.
- E. All money paid to the FTC pursuant to this Order may be deposited into a fund administered by the FTC or its designee to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the FTC decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the FTC may apply any remaining money for such other equitable relief (including consumer information

remedies) as it determines to be reasonably related to Defendants' practices alleged in the First Amended Complaint. Any money not used for such equitable relief is to be deposited to the U.S. Treasury as disgorgement. The Orellana Defendants have no right to challenge any actions the FTC or its representatives may take pursuant to this Section.

F. The asset freeze is modified to permit the payments and transfers identified in Section V. Upon completion of the payments and transfers identified in Section V, the asset freeze is dissolved.

VII. CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Carolina Orellana, Damian Biondi, 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, whether acting directly or indirectly, are permanently restrained and enjoined from directly or indirectly:

A. failing to provide sufficient customer information to enable the FTC to efficiently administer consumer redress. If a representative of the FTC requests in writing any information related to redress, Carolina Orellana or Damian Biondi must provide it in the form prescribed by the FTC, within fourteen (14) days;

B. 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, or other financial account), that any Defendant obtained prior to entry of this Order in connection with telemarketing and the sale of products; and

C. failing to destroy such customer information in all forms in their possession, custody, or control within thirty (30) days after entry after receipt of written direction to do so from a representative of the FTC.

Provided, however, 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.

VIII. PROVISION OF INFORMATION

IT IS FURTHER ORDERED that Carolina Orellana and Damian Biondi shall provide, no later than (14) days of the entry of this Order:

A. all information in their possession or control regarding Sumore, L.L.C. and Centro Natural Corp's customers, including all customers' contact information, purchase information, purchase dates, and purchase amounts from January 1, 2011 to the present;

B. all information in their possession or control regarding telemarketers used by Sumore, L.L.C. and Centro Natural Corp, including all communications with such telemarketers and contracts and payment data from January 1, 2011 to the present; and

C. all customer lists in their possession or control used by Sumore, L.L.C. and Centro Natural Corp or telemarketers of Sumore, L.L.C. and Centro Natural Corp from January 1, 2011 to the present and any information regarding the source of such customer lists.

IX. ORDER ACKNOWLEDGMENTS

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

A. Each Orellana 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 ten (10) years after entry of this Order, Carolina Orellana and Damian Biondi for any business engaged in activities covered by this Order that Orellana or Biondi, individually or collectively with any other Defendants, is the majority owner or controls directly or indirectly, must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who participate in conduct related to the subject matter of this Order; 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. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which Carolina Orellana or Damian Biondi delivers a copy of this Order, he or she must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this Order.

X. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Carolina Orellana and Damian Biondi make timely submissions to the FTC:

A. One year after entry of this Order, Carolina Orellana and Damian Biondi must each submit a compliance report, sworn under penalty of perjury:

1. Carolina Orellana and Damian Biondi must each: (a) identify all telephone numbers and all physical, postal, email and Internet addresses, including

all residences; (b) identify all business activities, including any business for which Carolina Orellana and Damian Biondi each perform services whether as an employee or otherwise and any entity in which he or she has any ownership interest; (c) describe in detail Carolina Orellana and Damian Biondi's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership; (d) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the FTC may use to communicate with Carolina Orellana and Damian Biondi; (e) identify all of Carolina Orellana and Damian Biondi's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (f) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant (which Carolina Orellana and Damian Biondi must describe if they know or should know due to their own involvement); (g) describe in detail whether and how Carolina Orellana and Damian Biondi are in compliance with each Section of this Order; and (h) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the FTC.

B. For twenty (20) years after entry of this Order, Carolina Orellana and Damian Biondi must submit a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in the following:

1. Carolina Orellana and Damian Biondi must report any change in: (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for which he or she performs services whether as an employee or otherwise and any entity in which he or she has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity; or (c) any designated point of contact; or (d) the structure of any entity located that he or she has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

- C. Carolina Orellana and Damian Biondi must submit to the FTC notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Defendant within fourteen (14) days of its filing.

- 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 an 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 Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: FTC v. Centro Natural et al., X150002.

XI. RECORDKEEPING

IT IS FURTHER ORDERED that Carolina Orellana and Damian Biondi must create certain records for ten (10) years after entry of the Order, and retain each such record for five (5) years. Specifically, Carolina Orellana and Damian Biondi, for any business that they, individually or collectively with any other Defendants, are a majority owner or controls directly or indirectly, must create and retain the following records:

- A. accounting records showing the revenues from all goods or services sold;
- B. personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;
- C. records of all consumer complaints and refund requests concerning the subject matter of the Order, whether received directly or indirectly, such as through a third party, and any response; and
- D. all records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the FTC.

XII. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring the Orellana Defendants' compliance with this Order, including the financial representations upon which part of the judgments was suspended, and any failure to transfer any assets as required by this Order:

A. Within fourteen (14) days of receipt of a written request from a representative of the FTC each Orellana 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, provided that the Orellana Defendants, after attempting to resolve a dispute without court action and for good cause shown, may file a motion with this Court seeking an order for one or more of the protections set forth in Rule 26(c).

B. For matters concerning this Order, the FTC is authorized to communicate directly with each Orellana Defendant. The Orellana Defendants must permit representatives of the FTC to interview any employee or other person affiliated with any Defendant who has agreed to such an interview. The person interviewed may have counsel present.

C. The FTC may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to the Orellana Defendants or any individual or entity affiliated with the Orellana Defendants, without the necessity of identification or prior notice. Nothing in this Order limits the FTC's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

D. Upon written request from a representative of the FTC, any consumer reporting agency must furnish consumer reports concerning Carolina Orellana and

Damian Biondi, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. §1681b(a)(1).

XIII. 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.

DONE AND ORDERED in Chambers at Miami, Florida, this 26th day of June, 2015.



CECILIA M. ALTONAGA
UNITED STATES DISTRICT JUDGE

cc: counsel of record

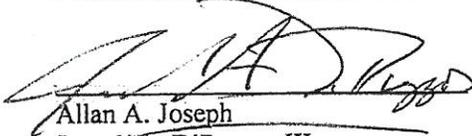
FOR FEDERAL TRADE COMMISSION



Date: 6/24/2015

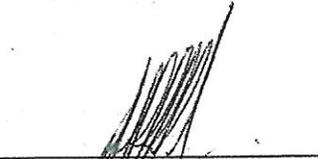
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Carolina Orellana

Date: 02/19/15



Damian Biondi

Date: 02/19/15

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