

EXHIBIT B

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

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

HIGHER GOALS MARKETING LLC, a Florida
limited liability company, et al.,

Defendants.

Case No. 6:17-cv-2048-ORL-41KRS

**STIPULATED ORDER FOR PERMANENT INJUNCTION AND
MONETARY JUDGMENT AS TO LEA A. BROWNELL**

Plaintiff, the Federal Trade Commission (“Commission”) filed its Complaint for Permanent Injunction and Other Equitable Relief pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108 (Doc. 1). The Commission and Lea A. Brownell (hereinafter “Settling Defendant”) 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 Complaint charges that Settling Defendant participated in deceptive acts or practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310.

3. The Complaint charges that since July 2016, Defendants have engaged in a telemarketing scheme that sold bogus debt-relief services to consumers struggling with credit-card debt. The Complaint further charges that Defendants have sold these services by false guarantees that Defendants will get consumers substantially and permanently lower interest rates on their credit cards.

4. Settling Defendant neither admits nor denies any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Settling Defendant admits the facts necessary to establish jurisdiction.

5. Settling Defendant waives and releases any claims that Settling Defendant may have against the Commission, the Receiver, and their agents that relate to this action. Settling Defendant agrees to bear Settling Defendant’s costs and attorneys’ fees.

6. Settling Defendant waives all rights to appeal or otherwise to challenge or to contest the validity of this Order.

DEFINITIONS

For purposes of this Order, the following definitions apply:

1. **“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:

a. 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.

b. 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.

c. 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.

d. In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.

e. 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.

f. The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.

g. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.

h. When the representation or sales practice targets a specific audience, such as children, the elderly, or the terminally ill, “ordinary consumers” includes reasonable members of that group.

2. “**Corporate Defendants**” means Higher Goals Marketing LLC and Sunshine Freedom Services LLC, and each of their subsidiaries, affiliates, successors, assigns, and any fictitious business entities or business names created or used by these entities.

3. “**Debt-Relief Product or Service**” means any product, service, plan, or program represented, expressly or by implication, to:

a. renegotiate, settle, or in any way alter the terms of payment or other terms of the debt between a person and one or more creditor or debt collector, including, but not limited to, a reduction in balance, interest rate, or fees owed by a person to any creditor or debt collector; or

b. provide, arrange, or assist any consumer in receiving, credit cards, debit cards, or stored-value cards.

4. “**Defendants**” means all of the Individual Defendants and the Corporate Defendants, individually, collectively, or in any combination.

5. “**Financial Institution**” means any bank, savings and loan institution, credit union, or any financial depository of any kind, including any brokerage house, trustee, broker-dealer, escrow agent, title company, commodity trading company, or precious metal dealer.

6. **“Individual Defendants”** means Brandun L. Anderson, Lea A. Brownell, Melissa M. Deese, Travis L. Teel, Wayne T. Norris, and Gerald D. Starr, Jr., individually, collectively, or in any combination, and by whatever other names each may be known.

7. **“Receiver”** means Mark J. Bernet, the Receiver appointed in the preliminary injunction entered by the Court on December 28, 2017 (Doc. 53) (“Preliminary Injunction Order”), and any deputy receiver that shall be named by the Receiver.

8. **“Telemarketing”** means any plan, program, or campaign which is conducted to induce the purchase of goods or services by use of one or more telephones, and which involves a telephone call, whether or not covered by the TSR.

ORDER

I. BAN ON TELEMARKETING

IT IS ORDERED that Settling Defendant is permanently restrained and enjoined from participating, consulting, brokering, planning, investing, or advising in Telemarketing, whether directly or through an intermediary.

Provided, however, that this Section shall not prohibit Settling Defendant from speaking to consumers in telephone calls initiated (i.e., dialed) by the consumers as part of the Settling Defendant’s employment by a publicly traded company in which Settling Defendant does not own more than one percent of the outstanding common shares.

II. BAN ON ANY DEBT-RELIEF PRODUCT OR SERVICE

IT IS FURTHER ORDERED that Settling Defendant is permanently restrained and enjoined from advertising, marketing, promoting, offering for sale, selling, or providing

fulfillment of, or assisting others in advertising, marketing, promoting, offering for sale, selling, or providing fulfillment of, any Debt-Relief Product or Service.

**III. PROHIBITION AGAINST MISREPRESENTATIONS
AND DECEPTIVE OMISSIONS**

IT IS FURTHER ORDERED that Settling Defendant, Settling Defendant's 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 product, service, plan, or program, are permanently restrained and enjoined from:

A. Misrepresenting, or assisting others in misrepresenting, expressly or by implication:

1. The total cost to purchase, receive, or use the product, service, plan, or program;

2. That any person is affiliated with, endorsed or approved by, or otherwise connected to any other person; government entity; public, non-profit, or other non-commercial program; or any other program;

3. The expertise, position, or job title of any person who provides the product, service, plan, or program;

4. The terms of any policy about refunds, cancellations, exchanges, or re-purchases;

5. Any material aspect of the performance, efficacy, nature, or characteristics of the product, service, plan, or program; or

6. Any other material fact.

B. Failing to disclose, or assisting others in failing to disclose, Clearly and Conspicuously:

1. The total cost to purchase, receive or use the product, service, plan, or program;
2. The terms of any policy about refunds, cancellations, exchanges, or re-purchases; or
3. Any material aspect of the performance, efficacy, nature, or characteristics of the product, service, plan, or program.

IV. PROHIBITED PAYMENT AND BILLING PRACTICES

IT IS FURTHER ORDERED that Settling Defendant, Settling Defendant's 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 product or service, are permanently restrained and enjoined from:

A. Obtaining payment by taking a cash advance against a consumer's credit card unless payment or authorization of payment is made after a face-to-face meeting with the consumer; and

B. Causing billing information to be submitted for payment without first having obtained the consumer's express informed consent to submit such billing information for payment. The Clear and Conspicuous disclosure of the information identified in Section III.B above must be made in close proximity to the consumer's express informed consent to purchase the product or service.

V. MONETARY JUDGMENT AND SUSPENSION

IT IS FURTHER ORDERED that:

A. Judgment is entered in the amount of three million, one hundred forty-nine thousand, nine hundred twenty dollars and thirty-four cents (\$3,149,920.34) in favor of the Commission against Settling Defendant, jointly and severally, as equitable monetary relief.

B. The judgment is suspended subject to the conditions set forth in Subsections C, D, and E, of this Section.

C. The Commission's agreement to the suspension of the judgment is expressly premised upon the truthfulness, accuracy, and completeness of Settling Defendant's sworn financial statements and related documents (collectively "financial representations") submitted to the Commission, namely:

1. The Federal Trade Commission Financial Statement of Individual Defendant, signed on January 8, 2018, including the attachments;

2. The information submitted by email from Settling Defendant to Commission counsel Rhonda P. Perkins on March 19, 2018 at 4:40 pm, March 20, 2018 at 11:57 am, and March 20, 2018 at 1:06 pm; and

3. The deposition of Settling Defendant taken by Commission counsel on February 28, 2018.

D. The suspension of the judgment will be lifted as to Settling Defendant if, upon motion by the Commission, the Court finds that Settling Defendant 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.

E. If the suspension of the judgment is lifted, the judgment becomes immediately due as to Settling Defendant in the amount specified in Subsection A above (which the parties stipulate only for purposes of this Section represents the consumer injury caused by the violations alleged in the Complaint) plus interest computed from the date of entry of this Order.

VI. ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

A. Settling Defendant relinquishes 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 Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission, 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 Complaint establish all elements necessary to sustain an action by the Commission 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. Settling Defendant acknowledges that Settling Defendant's Taxpayer Identification Number or Social Security Number, which was previously submitted to the Commission, 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. This Order is the result of a government agency action on behalf of injured purchasers of Defendants' Debt-Relief Product or Service and may serve as the basis to recover any surety bond, letter of credit, certificate of deposit, or other form of security filed with the Florida Department of Agriculture and Consumer Services ("DOACS"). In addition to the obligations set forth in Section V, the Commission and Settling Defendant agree that restitution may be paid from any such surety bond, letter of credit, certificate of deposit, or other form of security filed with the DOACS.

F. All money paid to the Commission pursuant to this Order may be deposited into a fund administered by the Commission 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 Commission decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to the Defendants' practices alleged in the Complaint. Any money not used for such equitable relief is to be deposited to the U.S. Treasury as disgorgement. Settling Defendant has no right to challenge any actions the Commission, the Receiver, or their representatives may take pursuant to this Subsection.

VII. MODIFICATION OF ASSET FREEZE

IT IS FURTHER ORDERED that the freeze on Settling Defendant's assets pursuant to the Preliminary Injunction Order is hereby dissolved as to the Settling Defendant. A Financial Institution shall be entitled to rely upon a letter from the Commission that the

freeze on Settling Defendant's assets has been lifted.

VIII. CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Settling Defendant, Settling Defendant's agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, are permanently restrained and enjoined from directly or indirectly:

A. Failing to provide sufficient customer information to enable the Commission to efficiently administer consumer redress. If a representative of the Commission requests in writing any information related to redress, Settling Defendant must provide it, in the form prescribed by the Commission, within fourteen (14) days;

B. Disclosing, using, or benefiting 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; and

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

Provided, however, that customer information need not be destroyed, and may be disclosed, to the extent requested by a government agency or required by law, regulation, or court order.

IX. PROHIBITION AGAINST COLLECTING ON ACCOUNTS

IT IS FURTHER ORDERED that Settling Defendant, Settling Defendant's 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, 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.

X. COOPERATION

IT IS FURTHER ORDERED that Settling Defendant must fully cooperate with representatives of the Commission and the Receiver in this case and in any investigation related to or associated with the transactions or the occurrences that are the subject of the Complaint. Settling Defendant must provide truthful and complete information, evidence, and testimony. Settling Defendant must appear for interviews, discovery, hearings, trials, and any other proceedings that a Commission representative may reasonably request upon five (5) days written notice, or other reasonable notice, at such places and times as a Commission representative may designate, without the service of a subpoena.

XI. ORDER ACKNOWLEDGMENTS

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

A. Settling Defendant, within seven (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 ten (10) years after entry of this Order, Settling Defendant for any business that Settling Defendant, individually or collectively with any other Defendant, 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, representatives, payment processors, and list brokers 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. In any other business, such as one in which Settling Defendant is an employee without any ownership or control, Settling Defendant must deliver a copy of this Order to all principals and managers of the business before participating in conduct related to the subject matter of this Order.

C. From each individual or entity to which Settling Defendant delivered a copy of this Order, Settling Defendant must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this Order.

XII. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Settling Defendant make timely submissions to the Commission:

A. One year after entry of this Order, Settling Defendant must submit a compliance report, sworn under penalty of perjury.

1. Settling Defendant must:

a. Identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission may use to communicate with Settling Defendant;

b. Identify all of Settling 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, and the involvement of any other Defendant (which Settling Defendant must describe if Settling Defendant knows or should know due to Settling Defendant's own involvement);

d. Describe in detail whether and how Settling 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 Commission.

2. Additionally, Settling Defendant must:

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 Settling Defendant performs services whether as an employee or otherwise and any entity in which Settling Defendant has any ownership interest; and

c. Describe in detail Settling Defendant's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any

ownership.

B. For ten (10) years after entry of this Order, Settling Defendant must submit a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in the following:

1. Settling Defendant must report any change in:

a. Any designated point of contact; or

b. The structure of any entity that Settling Defendant 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.

2. Additionally, Settling Defendant 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 Settling Defendant performs services whether as an employee or otherwise and any entity in which Settling Defendant has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity.

C. Settling Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or any similar proceeding by or against Settling Defendant within fourteen (14) days of its filing.

D. Any submission to the Commission 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 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 representative of the Commission, all submissions to the Commission 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. Lea A. Brownell*, Matter Number X180010.

XIII. RECORDKEEPING

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

- A. Accounting records showing the revenues from all products 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, whether received directly or indirectly, such as through a third party, and any response;
- D. Customer files showing the names, addresses, telephone numbers, dollar

amounts paid, and the quantity and description of products or services purchased, to the extent such information is obtained in the ordinary course of business;

E. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission;

F. A copy of each unique advertisement or other marketing material; and

G. Copies of contracts with, or all documents relating to any sale of any product or service involving, payment processors, list brokers, lead generators, dialers, or dialing platforms.

XIV. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Settling Defendant's 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 Commission, Settling 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 Commission 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.

B. For matters concerning this Order, the Commission is authorized to communicate directly with Settling Defendant. Settling Defendant must permit representatives of the Commission 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 Commission may use all other lawful means, including posing, through its representatives, as consumers, suppliers, or other individuals or entities, to Settling Defendant or any individual or entity affiliated with Settling Defendant, without the necessity of identification or prior notice. Nothing in this Order limits the Commission'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 Commission, any consumer reporting agency must furnish consumer reports concerning Settling Defendant, pursuant to Section 604(a)(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(1).

XV. 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 _____, 2018.

Carlos E. Mendoza
United States District Judge

SO STIPULATED AND AGREED:

FOR PLAINTIFF:

ALDEN F. ABBOTT
General Counsel

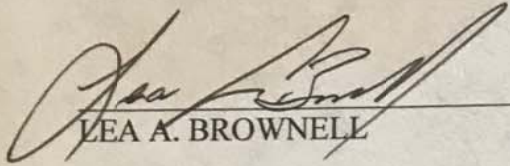


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Dated: August 9, 2018

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FEDERAL TRADE COMMISSION

FOR SETTling DEFENDANT:


LEA A. BROWNELL

Dated: 4/29, 2018