

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	Case No. 06C 0254
)	
v.)	
)	
BAD CREDIT B GONE, LLC, and)	
)	
JOSEPH A. GRAZIOLA, III,)	
)	
Defendants.)	

**DEFAULT JUDGMENT AND ORDER FOR
PERMANENT INJUNCTION AND MONETARY RELIEF**

On January 18, 2006, Plaintiff Federal Trade Commission (“Commission” or “FTC”), filed its Complaint for Injunctive and Other Equitable Relief against Defendants Bad Credit B Gone, LLC (“BCBG”), and Joseph A. Graziola, III (“Graziola”), pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and Section 410(b) of the Credit Repair Organizations Act (“CROA”), 15 U.S.C. § 1679h(b).

The FTC now has moved for entry of a default judgment on all counts of the Complaint against Defendants, pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure. The FTC’s Motion for Entry of Default Judgment Against Defendants Bad Credit B Gone, LLC, and Joseph A. Graziola, III, is hereby granted, and **IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** as follows:

FINDINGS

1. This is an action by the Commission instituted under Sections 5, 13(b), and 19 of the FTC Act, 15 U.S.C. §§ 45, 53(b), and 57b, and Section 410(b) of the CROA, 15 U.S.C. § 1679h(b). The Commission's Complaint seeks permanent injunctive relief against Defendants in connection with the sale and offering for sale of credit repair services in violation of the FTC Act and the CROA, and seeks equitable monetary relief in the form of consumer restitution and/or disgorgement. Pursuant to Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, the Commission has the authority to seek the relief contained herein.

2. This Court has jurisdiction over the subject matter of this case and has jurisdiction over all parties hereto.

3. Venue is proper as to all parties in the Northern District of Illinois.

4. The Commission's Complaint states a claim upon which relief may be granted against Defendants under Sections 5, 13(b), and 19 of the FTC Act, 15 U.S.C. §§ 45, 53(b), and 57b.

5. The activities of Defendants, as alleged in the Complaint, are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

6. Defendants were personally served with process in this matter on January 19, 2006, and they thereafter have failed to file an answer to the Complaint within the time set forth by Rule 12(a) of the Federal Rules of Civil Procedure, or to otherwise defend this action. On February 2, 2006, the Court entered an order requiring Defendants to answer or plead by February 8, 2006, or be held in default. Defendants subsequently failed to answer or plead, and the FTC moved for entry of default on February 14, 2006. The FTC now is entitled to a default judgment pursuant to Rule 55(b) of the Federal Rules of Civil Procedure.

7. The factual allegations in the Commission's Complaint are taken as true against Defendants. Those allegations and the evidence supporting them establish that Defendants violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and Sections 404(a)(3) and 404(b) of the CROA, 15 U.S.C. §§ 1679b(a)(3) and 1679b(b).

8. The Court now finds that, in connection with the performance of services for consumers by a credit repair organization, as that term is defined in Section 403(3) of the CROA, 15 U.S.C. § 1679a(3), Defendants have violated Section 404(b) of the CROA, 15 U.S.C. § 1679b(b), by charging or receiving money or other valuable consideration for the performance of credit repair services that Defendants have agreed to perform before such services were fully performed.

9. The Court further finds that, in connection with the performance of services for consumers by a credit repair organization, as that term is defined in Section 403(3) of the CROA, 15 U.S.C. § 1679a(3), Defendants have violated Section 404(a)(3) of the CROA, 15 U.S.C. § 1679b(a)(3), by making untrue or misleading statements to induce consumers to purchase their credit repair services, including, but not limited to, the representation that Defendants can improve substantially most consumers' credit reports or profiles by permanently removing negative information from consumers' credit reports, even where such information is accurate and not obsolete.

10. The Court further finds that, in connection with the advertising, marketing, promotion, offering for sale, and sale of credit repair services, Defendants have violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), by falsely representing that they can improve substantially most consumers' credit reports or profiles by permanently removing negative

information from consumers' credit reports, even where such information is accurate and not obsolete.

11. Defendants are likely to continue to engage in the acts and practices alleged in the Complaint unless they are permanently enjoined from such acts and practices.

12. The Commission is entitled to equitable monetary relief against Defendants in the amount of three-hundred twenty-two thousand, forty-seven dollars and thirty-eight cents (\$322,047.38), for which Defendants are jointly and severally liable.

13. This Order is in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law.

14. Entry of this Order is in the public interest.

15. Pursuant to Federal Rule of Civil Procedure 65(d), the provisions of this Order are binding upon Defendants, their officers, agents, servants, employees, attorneys, corporations, successors and assigns, and upon those persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise.

DEFINITIONS

1. **“Assisting others”** means providing any of the following goods or services to any person or entity: (a) performing customer service functions, including, but not limited to, receiving or responding to consumer complaints; (b) formulating or providing, or arranging for the formulation or provision of, any sales script or any other marketing material, including, but not limited to, Web site and commercial electronic message content; (c) providing names of, or assisting in the generation of, potential customers; (d) performing marketing services of any kind; (e) hiring, recruiting, or training personnel; (f) performing collection activity of any kind;

or (g) acting as an officer or director of a business entity.

2. **“Credit repair organization”** shall have the meaning ascribed to that term in the CROA Section 403(3), 15 U.S.C. § 1679a(3), as presently enacted or as it may hereinafter be amended.

3. **“Credit repair service”** or **“credit repair services”** means any service, in return for the payment of money or other valuable consideration, for the express or implied purpose of (1) improving any consumer’s credit record, credit history, or credit rating; or (2) providing 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.

4. **“Customer”** means any person who has paid, or may be required to pay, for goods or services offered for sale or sold by Defendants.

5. **“Defendant”** or **“Defendants”** means Bad Credit B Gone, LLC, and Joseph A. Graziola, III.

6. **“Document”** or **“documents”** is synonymous in meaning and equal in scope to the usage of the term in Federal Rules of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which 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. **“Material”** means likely to affect a person’s choice of, or conduct regarding, goods or services.

8. **“Person”** or **“persons”** 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.

9. **“Plaintiff”** means the Federal Trade Commission.

I.

**PROHIBITED BUSINESS ACTIVITIES PURSUANT TO
THE FEDERAL TRADE COMMISSION ACT**

IT IS THEREFORE ORDERED that Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, in connection with the advertising, marketing, promotion, offering for sale, sale, or provision of any good or service, including, but not limited to, credit repair services, are hereby permanently restrained and enjoined from:

A. Misrepresenting, either orally or in writing, directly or by implication, that Defendants can improve substantially most consumers’ credit reports or profiles by permanently removing negative information from consumers’ credit reports, even where such information is accurate and not obsolete;

B. Misrepresenting, either orally or in writing, directly or by implication, any fact material to a consumer’s decision to purchase any credit repair services from Defendants;

C. Misrepresenting, either orally or in writing, directly or by implication, any

material fact regarding any item, product, good, or service sold or offered for sale by Defendants; and

D. Assisting others who violate any provision of Paragraphs A through C of this Section.

II.

**PROHIBITED BUSINESS ACTIVITIES PURSUANT TO
THE CREDIT REPAIR ORGANIZATIONS ACT**

IT IS FURTHER ORDERED that Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, in connection with the advertising, marketing, promotion, offering for sale, sale, or provision of any credit repair services, are hereby permanently restrained and enjoined from violating the CROA, 15 U.S.C. §§ 1679-1679j, as presently enacted or as it may hereinafter be amended, by, including, but not limited to:

A. Violating 15 U.S.C. § 1679b(b) by charging or receiving money or other valuable consideration for the performance of credit repair services that Defendants have agreed to perform before all such services have been fully performed; and

B. Violating 15 U.S.C. § 1679b(a)(3) by making or using untrue or misleading statements to induce consumers to purchase credit repair services, including, but not limited to, the representation that Defendants can improve substantially most consumers' credit reports or profiles by permanently removing negative information from consumers' credit reports, even

where such information is accurate and not obsolete.

IT IS FURTHER ORDERED that Defendants, whether directly or indirectly, or through any corporation, business entity, or person under their control, are hereby permanently restrained and enjoined from assisting others who violate any provision of the CROA, including, but not limited to, the specific violations contained in Paragraphs A and B of this Section.

III.

SUSPENSION OF COLLECTION ON ACCOUNTS

IT IS FURTHER ORDERED that Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, are hereby permanently restrained and enjoined from attempting to collect, collecting, or assigning any right to collect payment for any credit repair services from any customer of any Defendant.

IV.

PROHIBITION ON DISCLOSING CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or

any of them, are hereby permanently restrained and enjoined from:

A. Selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, social security number, or other identifying information of any person who purchased or paid for credit repair services at any time prior to the date this Order is entered; and

B. Benefitting from or using the name, address, telephone number, credit card number, bank account number, date of birth, email address, or other identifying or financial information of any person who submitted this information to Defendants as a result of, or otherwise related to, the activities alleged in the FTC's Complaint.

Provided, however, that Defendants may disclose identifying information to a law enforcement agency or as required by any law, regulation, or court order.

V.

MONETARY RELIEF

IT IS FURTHER ORDERED that:

A. Judgment is hereby entered against Defendants, jointly and severally, in the amount of three-hundred twenty-two thousand, forty-seven dollars and thirty-eight cents (\$322,047.38). This amount shall become immediately due and payable by Defendants upon entry of this Order, and interest computed at the rate prescribed under 28 U.S.C. § 1961, as amended, shall immediately begin to accrue on the unpaid balance;

B. All funds paid pursuant to this Section shall be deposited into a fund, administered by the Commission or its agent, to be used for equitable relief, including, but not limited to, consumer redress and any attendant expenses for the administration of such equitable relief. In the event that direct redress to consumers is wholly or partially impracticable or funds

remain after redress is completed, the Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the Complaint. Any funds not used for such equitable relief shall be deposited to the United States Treasury as disgorgement.

Defendants shall have no right to challenge the Commission's choice of remedies or the manner of distribution under this Section. The Commission, in its sole discretion, may use a designated agent to administer consumer redress; and

C. The judgment entered pursuant to Paragraph A of this Section for equitable monetary relief is solely remedial in nature and is not a fine, penalty, punitive assessment, or forfeiture.

VI.

DISSOLUTION OF ASSET FREEZE

IT IS FURTHER ORDERED that upon payment to the Commission of the total amount required by Section V of this Order, the freeze against the assets of Defendants pursuant to Section V of the Preliminary Injunction with Asset Freeze and Other Equitable Relief entered by the Court on February 2, 2006, shall be lifted permanently.

VII.

COMMISSION'S AUTHORITY TO MONITOR COMPLIANCE

IT IS FURTHER ORDERED that, for the purpose of monitoring and investigating compliance with any provision of this Order:

A. Within ten (10) days of receipt of written notice from a representative of the Commission, Defendants shall submit additional written reports, sworn to or affirmed under

penalty of perjury; produce documents for inspection and copying; appear for deposition; and/or provide entry during normal business hours to any business location in Defendants' possession, or direct or indirect control, to inspect the business operation;

B. The Commission is authorized to monitor compliance with this Order by all other lawful means, including, but not limited to, the following:

1. obtaining discovery from any person, without further leave of court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36 and 45; and
2. posing as consumers and suppliers to Defendants, any of Defendants' employees, or any other entity managed or controlled in whole or in part by Defendants, without the necessity of identification or prior notice; and

C. Defendants shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to any conduct subject to this Order. The person interviewed may have counsel present.

Provided, however, that nothing in this Order shall limit 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, to obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

VIII.

COMPLIANCE REPORTING BY DEFENDANTS

IT IS FURTHER ORDERED that, in order that compliance with the provisions of this Order may be monitored:

A. For a period of five (5) years from the date of entry of this Order,

1. Defendant Joseph A. Graziola, III, shall notify the Commission of the following:

a. any changes in residence, mailing address(es), and telephone number(s), within ten (10) days of the date of such change;

b. any changes in employment status (including self-employment), and any change in the ownership of any business entity within ten (10) days of such change. Such notice shall include the name and address of each business that Defendant Graziola is affiliated with or employed by, creates or forms, or performs services for; a statement of the nature of the business; and a statement of Defendant Graziola's duties and responsibilities in connection with the business or employment; and

c. any changes in Defendant Graziola's name or use of any aliases or fictitious names.

2. Defendants BCBG and Graziola shall notify the Commission of any changes in the corporate structure of any business entity that Defendants directly or indirectly control, or have an ownership interest in, that may affect compliance obligations arising under this Order, including, but not limited to, a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor entity; the creation or dissolution of a subsidiary, parent, or affiliate that

engages in any acts or practices subject to this Order; the filing of a bankruptcy petition; or a change in the corporate name or address, at least thirty (30) days prior to such change, *provided* that, with respect to any proposed change in the corporation about which Defendants learn less than thirty (30) days prior to the date such action is to take place, Defendants shall notify the Commission as soon as is practicable after obtaining such knowledge.

B. One hundred eighty (180) days after the date of entry of this Order, Defendants BCBG and Graziola shall provide a written report to the FTC, sworn to under penalty of perjury, setting forth in detail the manner and form in which they have complied and are complying with this Order. This report shall include, but not be limited to:

1. For Defendant Graziola:

a. Defendant Graziola's then-current residence address, mailing address(es), and telephone number(s);

b. Defendant Graziola's then-current employment and business address(es) and telephone number(s), a description of the business activities of each such employer or business, and the title and responsibilities of Defendant Graziola, for each such employer or business; and

c. any other changes required to be reported under Paragraph A of this Section.

2. For Defendants BCBG and Graziola:

a. a copy of each acknowledgment of receipt of this Order, obtained pursuant to Section X of this Order;

b. A list of all names under which Defendants did or currently do business under since entry of this Order; and

c. Any other changes required to be reported under Paragraph A of this Section.

C. For purposes of this Order, Defendants shall, unless otherwise directed by the Commission's authorized representatives, mail all written notifications to the Commission to:

Associate Director for Enforcement
Federal Trade Commission
601 New Jersey Avenue, N.W.
Washington, D.C. 20580
Re: *FTC v. Bad Credit B Gone, LLC, and Joseph A. Graziola, III*
Civ. No. 06C 0254 (N.D. Ill.)

D. For the purposes of the compliance reporting required by this Section, representatives of the Commission are authorized to communicate directly with Defendants, unless Defendants indicate that they are represented by counsel and provide the name and address of such counsel to the Commission.

IX.

RECORD KEEPING PROVISIONS

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry of this Order, in connection with any business where any Defendant is the majority owner of the business or directly or indirectly manages or controls the business, Defendants and their agents, employees, officers, corporations, successors, and assigns, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from failing to create and retain the following records:

A. Accounting records that reflect the cost of goods or services sold, revenues

generated, and the disbursement of such revenues;

B. Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by such business, including as an independent contractor; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;

C. Customer files containing the names, addresses, telephone numbers, dollar amounts paid, quantity of items or services purchased, and description of items or services purchased, to the extent such information is obtained in the ordinary course of business;

D. Complaints and refund requests (whether received directly, indirectly or through any third party) and any responses to those complaints or requests;

E. Copies of all sales scripts, training materials, advertisements, or other marketing materials; and

F. All other records and documents necessary to demonstrate full compliance with each provision of this Order, including, but not limited to, copies of acknowledgments of receipt of this Order, required by Section X of this Order, and all reports submitted to the Commission pursuant to this Order.

X.

DISTRIBUTION OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry

of this Order, Defendants shall deliver copies of this Order as directed below:

A. **Defendant BCBG:** Defendant BCBG must deliver a copy of this Order to all of its principals, officers, directors, and managers. Defendant BCBG also must deliver copies of this Order to all of its employees, agents, and representatives who engage in conduct related to the subject matter of the Order. For current personnel, delivery shall be within five (5) days of service of this Order upon Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities.

B. **Defendant Graziola as Control Person:** For any business that Defendant Graziola controls, directly or indirectly, or in which he has majority ownership interest, Defendant Graziola must deliver a copy of this Order to all principals, officers, directors, and managers of that business. Defendant Graziola must also deliver copies of this Order to all employees, agents, and representatives of that business who engage in conduct related to the subject matter of the Order. For current personnel, delivery shall be within five (5) days of service of this Order upon Defendants. For new personnel, delivery shall occur prior to them assuming their responsibilities.

C. **Defendant Graziola as Employee or Non-control Person:** For any business where Defendant Graziola is not a controlling person of a business but otherwise engages in conduct related to the subject matter of this Order, Defendant Graziola must deliver a copy of this Order to all principals and managers of such business before engaging in such conduct.

D. Defendants BCBG and Graziola must secure a signed and dated statement acknowledging receipt of this Order, within thirty (30) days of delivery, from all persons receiving a copy of this Order pursuant to this Section.

XI.

ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that Defendants, within five (5) business days of receipt of this Order as entered by the Court, must submit to the Commission a truthful sworn statement acknowledging receipt of this Order.

XII.

ENTRY OF THIS JUDGMENT

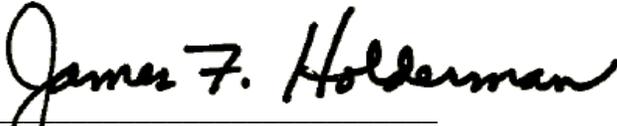
IT IS FURTHER ORDERED that, as there is no just reason for delay of entry of this judgment, pursuant to Fed. R. Civ. P. 54(b), the clerk shall enter this Order immediately.

XIII.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction over this matter for all purposes.

Enter:



James F. Holderman

United States District Judge