

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

THOMAS RYAN
1078 Buckingham Lane
Newport Beach, CA 92660

Defendant.

Civil No. 1:09-00535 (HHK)

**AMENDED COMPLAINT FOR
PERMANENT INJUNCTION AND
OTHER EQUITABLE RELIEF**

Plaintiff, the Federal Trade Commission (“FTC”), for its Amended Complaint alleges:

1. The FTC brings this action under Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to obtain temporary, preliminary, and permanent injunctive relief, rescission or reformation of contracts, restitution, disgorgement of ill-gotten monies, and other equitable relief for Defendant’s acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a). Defendant uses a foreign registrar to register falsely his websites using the address for the U.S. Department of Housing and Urban Development (“HUD”). Defendant uses his websites, <http://bailout.hud.gov.us> and <http://bailout.dohgov.us>, to solicit consumers to seek home loan mortgage modification under the guise that Defendant is the U.S. government or is affiliated with the U.S. government.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a), 53(b).

3. Venue is proper in this District under 28 U.S.C. § 1391(b), (c), and (d) and 15 U.S.C. § 53(b).

PLAINTIFF

4. The FTC is an independent agency of the United States government created by statute. 15 U.S.C. §§ 41 - 58. The FTC is charged, *inter alia*, with enforcement of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair and deceptive acts or practices in or affecting commerce.

5. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and to secure such equitable relief as may be appropriate in each case, including restitution and disgorgement. 15 U.S.C. §§ 53(b), 56(a), 57b.

DEFENDANT

6. Defendant Thomas Ryan is a resident of the State of California. The Defendant transacts business in the District of Columbia. At all times material to this Amended Complaint, acting alone or in concert with others, Defendant has advertised, marketed, distributed, and/or sold home loan modification services to consumers throughout the United States.

COMMERCE

7. At all times relevant to this Complaint, Defendant has maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANT'S BUSINESS ACTIVITIES

8. Since at least March 2009, Defendant has solicited consumers to seek home loan modification through his websites <http://bailout.hud-gov.us> and <http://bailout.dohgov.us>.

9. Defendant's websites prominently tout that Defendant is the United States government. Specifically, his websites at various times have been entitled Homeowner Affordability and Stability Plan, which is the name of the United States government's homeowner relief plan as announced by the Department of Treasury, as well as Home Affordable Modification Program. Defendant further states that he is the "House and Urban Department" and displays a government like seal that reads "United States - Housing and Urban Department" or "United States - Department of Housing." Defendant's homepages also feature a prominent button linking to the official U.S. government website, USA.gov.

10. Moreover, the top of Defendant's homepages feature the picture of a man surrounded by American flags standing in front of a large sign with a government seal that reads "Financial Stability and Recovery." Defendant copied this picture from the United States Department of Treasury website. However, the face of Treasury Secretary Timothy F. Geithner has been replaced with a similar looking face.

11. In addition, Defendant's "Contact" link, which appears at both the top and the bottom of his homepages links to a webpage that states in bold letters "Contact U.S. Department of Housing and Urban Development" and lists phone numbers of the actual U.S. Department of Housing and Urban Development ("HUD"). This page also includes the address for HUD, U.S. Department of Housing and Urban Development, 451 7th Street S.W., Washington, DC 20410. Defendant provides no other contact information on his website.

12. To further bolster his government credentials, on their “Consumer Alert” link, Defendant states “Fraudulent Websites are on the rise, only trust **official government Websites**” (emphasis added). Defendant then proceeds to give advice to consumers in financial distress on various ways to avoid being scammed by citing information provided by the California Attorney General.

13. Defendant aims to leverage his purported status as a government entity to convince consumers to apply for loan modification assistance. Specifically, Defendant urges consumers to “Apply for a U.S. Loan Modification Plan” using an online form to solicit information about a consumer’s loan, including the name of their lender, as well as personal information, including the consumer’s name, email address, and phone number. On the “Mortgage Bailout Plan” section of his sites, Defendant states “[b]y submitting the form below we will recommend a law firm to assist you” and “[t]he sooner we can get involved, the better chance you have of avoiding foreclosure.”

14. In a faint typeface at the very bottom of his <http://bailout.hud-gov.us> homepage Defendant states “The House and Urban Department is a for profit business and is not affiliated with U.S. Department of Housing and Urban Development.” His <http://bailout.dohgov.us> site does not include this statement. Defendant also has a nondescript “Disclaimer” link at the bottom right corner of his homepages, which links to a webpage that states Defendant is

not affiliated in any way with The “U.S. Department of Housing and Urban Development” at www.hud.gov. Certain content on our Website is reproduced with consent from the www.hud.gov Website. The House and Urban Department is a for profit business that educates the general public and works with attorneys and brokers to reduce monthly mortgage payments through loan modifications.

These statements are not clear and conspicuous in relation to the above-referenced express and implied claims that Defendant is the federal government or is affiliated with the federal government.

VIOLATIONS OF THE FTC ACT

15. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts or practices in or affecting commerce.”

16. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

Count I

Misrepresentations Concerning Government Status

17. In numerous instances in connection with the advertising, marketing, promotion, offering for sale, or sale of home mortgage loan modification services, Defendant represents, directly or indirectly, expressly or by implication, that Defendant is the United States government or is affiliated with the United States government. Such representations are material to consumers seeking mortgage relief.

18. In truth and in fact, Defendant is not the United States government nor is Defendant affiliated with the United States government.

19. Therefore, Defendant’s representations as set forth in Paragraph 17 of this Complaint are false and misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

CONSUMER INJURY

20. Consumers likely will suffer substantial injury as a result of Defendant’s violations of the FTC Act. In addition, Defendant has been unjustly enriched as a result of his

unlawful acts or practices. Absent injunctive relief by this Court, Defendant is likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

21. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of the FTC Act. The Court, in the exercise of its equitable jurisdiction, may award ancillary relief, including rescission of contracts and restitution, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of any provision of law enforced by the FTC.

PRAYER FOR RELIEF

Wherefore, Plaintiff Federal Trade Commission, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. §§ 53(b) and the Court's own equitable powers, requests that the Court:

A. Award Plaintiff such preliminary injunctive and ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action and to preserve the possibility of effective final relief by entering a temporary restraining order and a preliminary injunction.

B. Enter a permanent injunction to prevent future violations of the FTC Act by Defendant.

C. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendant's violations of the FTC Act, including but not limited to, rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies.

D. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Respectfully submitted,

DAVID C. SHONKA
Acting General Counsel

Date: March 25, 2009

/s Douglas V. Wolfe

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