

UNITED STATES DISTRICT COURT
DISTRICT OF COLUMBIA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

**SEAN CANTKIER, SCOT LADY, JEFFREY
ALTMIRE, MICHAEL HALLER, LISA
ROYE, ALAN LESTOURGEON, KEAN LEE
LIM, GREG RIVERA, and NEIL SPERRY,**

Defendants.

Case No. 1:09-cv-00894-CKK

**PRELIMINARY INJUNCTION AS TO DEFENDANTS SCOT LADY, JEFFREY
ALTMIRE, ALAN LESTOURGEON, AND KEAN LEE LIM**

On May 14, 2009, Plaintiff Federal Trade Commission (“FTC” or “Commission”), pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), filed a Complaint for Permanent Injunction and Other Equitable Relief against One or More Unknown Parties Misrepresenting Their Affiliation with the Making Home Affordable Program.

On May 15, 2009, the FTC filed a motion for a temporary restraining order (“TRO”) pursuant to Federal Rule of Civil Procedure 65(b) and Local Civil Rule 65.1. That same day, this Court issued a TRO that included an order to Defendants to show cause why the Court should not enter a preliminary injunction.

On June 18, 2009, the FTC filed its Amended Complaint naming Sean Cantkier, Scot Lady, Jeffrey Altmire, Michael Haller, Lisa Roye, Alan LeSturgeon, Kean Lee Lim, Greg Rivera, and Neil Sperry as defendants.

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The FTC and defendants Lisa Roye, Sean Cantkier, Greg Rivera, and Michael Haller have previously stipulated to the entry of a preliminary injunction.

On June 25, 2009, this Court held a hearing on the order to show cause why a preliminary injunction should not issue against Defendants Scot Lady, Jeffrey Altmire, Alan LeSturgeon, and Kean Lee Lim. On oral motion, the FTC has sought a continuance on the order to show cause with respect to defendant Neil Sperry.

This Court, having considered the arguments and the exhibits, memoranda, declarations, and other submissions filed by the parties, and now being advised in the premises, finds that:

1. The Court has jurisdiction over the subject matter of this case, and there is good cause to believe it will have jurisdiction over Defendants Scot Lady, Jeffrey Altmire, Alan LeSturgeon, and Kean Lee Lim.

2. Venue in the District of Columbia is proper under 28 U.S.C. § 1391(b), (c), and (d) and 15 U.S.C. § 53(b).

3. There is good cause to believe that Defendants Scot Lady, Jeffrey Altmire, Alan LeSturgeon, and Kean Lee Lim have engaged, and are likely to continue to engage, in acts or practices that violate Section 5 of the FTC Act, 15 U.S.C. § 45, and that the FTC is, therefore, likely to prevail on the merits of this action.

4. There is good cause to believe that consumers will suffer immediate and continuing harm unless Defendants Scot Lady, Jeffrey Altmire, Alan LeSturgeon, and Kean Lee Lim are immediately restrained by an order of this Court. The FTC's memorandum in support of its TRO motion and supplemental memorandum in support of a Preliminary Injunction and the accompanying declarations and exhibits demonstrate that it is likely that Defendants Scot Lady, Jeffrey Altmire, Alan LeSturgeon, and Kean Lee Lim have engaged in

illegal activity by placing advertisements on Internet search results pages that divert consumers searching for the Making Home Affordable program or other homeowner relief or financial stability programs of the United States government to websites marketing loan modification services or obtaining leads for the sale of such services.

5. Counsel for the FTC has submitted a certification evidencing efforts to provide copies of the complaint, TRO, and all pleadings and papers filed in this action to Defendants Scot Lady, Jeffrey Altmire, Alan LeSturgeon, and Kean Lee Lim, and to notify them of their right to appear at the Preliminary Injunction hearing and to submit papers in response to the order to show cause.

6. No security is required of any agency of the United States for issuance of a preliminary injunction, Fed. R. Civ. P. 65(c).

7. Balancing the equities and considering the FTC's likelihood of success on the merits, the entry of this preliminary injunction is in the public interest.

DEFINITIONS

For the purposes of this Order, the following definitions shall apply:

1. "Assisting others" means knowingly providing any of the following goods or services to another person or entity: (1) performing customer service functions, including, but not limited to, receiving or responding to consumer complaints; (2) formulating or providing, or arranging for the formulation or provision of, any Internet advertisement or any other marketing material; (3) providing names of, or assisting in the generation of, potential customers; or (4) performing marketing services of any kind.

2. "Defendants" means Sean Cantkier, Scot Lady, Jeffrey Altmire, Michael Haller, Lisa Roye, Alan LeSturgeon, Kean Lee Lim, Greg Rivera, and Neil Sperry, and each of them.

3. “Document” is equal in scope and synonymous in meaning to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and any other data compilations from which information can be obtained. A draft or non-identical copy is a separate document within the meaning of the term.

4. “Federal homeowner relief or financial stability program” means any program (including its sponsoring agencies, telephone numbers, and Internet websites) operated or endorsed by the United States government to provide relief to homeowners or stabilize the economy, including but not limited to (1) the Making Home Affordable program or www.makinghomeaffordable.gov (and URLs on other top-level domains that resolve to this website); (2) the Financial Stability plan or www.financialstability.gov; (3) the United States Department of the Treasury and the Troubled Asset Relief Program (“TARP”); (4) the Federal Housing Administration, the HOPE for Homeowners program, the Helping Families Save Their Homes Act, www.fhaoutreach.gov, or www.fha.gov; or (5) the United States Department of Housing and Urban Development (“HUD”), www.hud.gov, the HOPE NOW Alliance, www.hopenow.com, (888) 995-HOPE, the Homeownership Preservation Foundation, www.999hope.org or any HUD-approved housing counseling agency.

5. “MakingHomeAffordable.gov,” “financialstability.gov,” and any other domain name associated with a federal homeowner relief or financial stability program includes any variation of the domain name that differs only in the introduction or omission of spaces, capitalization, or punctuation, changes from singular to plural or plural to singular, and misspellings or introduction of words that result in a domain name that is likely to be confused with the domain name associated with a federal homeowner relief or financial stability program.

“MakingHomeAffordable.gov” also includes MakingHomeAffordable.gov, MakingHomeAffordable.com, MakingHomeAffordable.net, MakingHomeAffordable.org, or MakingHomeAffordable.info.

6. "Mortgage loan modification or foreclosure relief service" means any service, product, or program that is represented, expressly or by implication, to assist a homeowner in any manner to (1) obtain or arrange a modification of any term of a home loan, deed of trust, or mortgage; (2) obtain or arrange a refinancing, recapitalization, or reinstatement of a home loan, deed of trust, or mortgage; (3) obtain or arrange a pre-foreclosure sale, short sale, or deed-in-lieu of foreclosure; (4) stop, prevent, or postpone any home mortgage or deed of trust foreclosure sale; (5) obtain any forbearance from any beneficiary or mortgagee; (6) obtain a loan or advance of funds that is connected to the consumer's home ownership; (7) avoid or ameliorate the impairment of the owner's credit standing, credit rating or credit profile that is connected to the consumer's home ownership; or (8) save the owner's residence from foreclosure.

7. “Person” means a natural person, organization, or other legal entity, including a corporation, partnership, proprietorship, association, cooperative, or any other group or combination acting as an entity.

ORDER

PROHIBITED REPRESENTATIONS

I. IT IS THEREFORE ORDERED that Defendants Scot Lady, Jeffrey Altmire, Alan LeSturgeon, and Kean Lee Lim and their successors, assigns, officers, agents, servants, employees, and attorneys, and those persons or entities in active concert or participation with any of them who receive actual notice of this Order by personal service, facsimile transmission, email, or otherwise, whether acting directly or through any corporation, subsidiary, division, or

other device, in connection with (1) the advertising, marketing, promotion, offering for sale or sale of (a) any mortgage loan modification or foreclosure relief service, or (b) any other service or product related to, or represented as related to, any federal homeowner relief or financial stability program, or (2) the acquisition of marketing leads for the sale of any such service or product, are hereby restrained and enjoined from:

A. causing, or assisting others to cause, an advertisement to be placed on an Internet search results page when a consumer uses an Internet search engine, or to otherwise appear on the Internet or be transmitted through the Internet that:

1. contains a hyperlink that is labeled “MakingHomeAffordable.gov,” “financialstability.gov, or any term that identifies any federal homeowner relief or financial stability program, or that contains the top level domain name “gov;” or
2. otherwise misrepresents affiliation with any federal homeowner relief or financial stability program;

B. causing, or assisting others to cause, the Internet browsers of consumers who click on a hyperlink labeled “MakingHomeAffordable.gov,” “financialstability.gov, or any term that identifies any federal homeowner relief or financial stability program, or that contains the top level domain name “gov;” to be directed to any website other than the federal homeowner relief or financial stability program website implied by the hyperlink label; or

C. falsely representing, or assisting others who are falsely representing, expressly or by implication:

1. that any person operates www.makinghomeaffordable.gov, www.financialstability.gov, or other federal homeowner relief and financial stability programs; or
2. that any person is the United States government or affiliated, associated, acting in partnership, or under contract with, the United States government.

PRESERVATION OF RECORDS

II. IT IS FURTHER ORDERED that Defendants Scot Lady, Jeffrey Altmire, Alan LeSturgeon, and Kean Lee Lim and their successors, assigns, officers, agents, servants, employees, and attorneys, and those persons or entities in active concert or participation with any of them who receive actual notice of this Order by personal service, facsimile transmission, email, or otherwise, whether acting directly or through any corporation, subsidiary, division, or other device, are hereby restrained and enjoined from destroying, erasing, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, any documents that relate to the business practices, or business or personal finances, of any Defendant.

MODIFICATION TO DISCOVERY RULES

III. IT IS FURTHER ORDERED that the parties may begin seeking discovery from any source as of the date of entry of this order; *provided, however*, the parties shall still be required to meet pursuant to Federal Rule of Civil Procedure 26(f) when appropriate; *provided, further*, that the FTC may conduct the Rule 26(f) meetings with particular defendants jointly or individually in its discretion.

ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANT

IV. IT IS FURTHER ORDERED that Defendants Scot Lady, Jeffrey Altmire, Alan LeSturgeon, and Kean Lee Lim, within three (3) business days of receipt of this Order, each shall submit to counsel for the Commission a truthful sworn statement acknowledging receipt of this Order.

PROOF OF DISTRIBUTION OF ORDER BY DEFENDANT

V. IT IS FURTHER ORDERED that Defendants Scot Lady, Jeffrey Altmire, Alan LeSturgeon, and Kean Lee Lim each shall immediately provide a copy of this Order to his agents, servants, employees, consultants, any other persons or entities subject in any part to his direct or indirect control, persons with whom Defendants Scot Lady, Jeffrey Altmire, Alan LeSturgeon, and Kean Lee Lim place advertising, and persons who operate websites to which Defendants Scot Lady, Jeffrey Altmire, Alan LeSturgeon, and Kean Lee Lim refer consumers. Within five (5) business days of receipt of this Order, Defendants Scot Lady, Jeffrey Altmire, Alan LeSturgeon, and Kean Lee Lim shall submit to counsel for the Commission a truthful sworn statement identifying those persons and entities to whom this Order has been distributed.

SERVICE OF ORDER

VI. IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission or email, personal or overnight delivery, or U.S. Express Mail, by agents and employees of the FTC or any state or federal law enforcement agency or by private process server, upon Defendants or any other person or entity that may be subject to any provision of this Order.

SERVICE UPON THE FTC

VII. IT IS FURTHER ORDERED that for the purposes of this Order, all service on the Commission's counsel shall be performed by overnight mail delivery, facsimile, or email to: Lawrence Hodapp, Federal Trade Commission, 601 New Jersey Avenue., N.W., Room 3158, Washington, D.C. 20001, lhodapp@ftc.gov (email), (202) 326-3768 (fax).

RETENTION OF JURISDICTION

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

IT IS SO ORDERED, this 25th day of June, 2009.


COLLEEN KOLLAR-KOTELLY
United States District Judge