

**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

STIPULATED PRELIMINARY INJUNCTION AS TO DEFENDANT SEAN CANTKIER

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. The FTC and Defendant Sean Cantkier have stipulated and agreed to entry of this preliminary injunction order (“Order”).

FINDINGS

By stipulation of the parties, the Court finds as follows:

1. The FTC and Defendant Sean Cantkier have stipulated and agreed to the entry of this preliminary injunction order (“Order”) without any admission of wrongdoing or violation of law, and without a finding by the Court of law or fact other than stated below.

2. This Court has jurisdiction over the subject matter of this case and personal jurisdiction over Defendant Sean Cantkier, and venue in this district is proper.

3. Defendant Sean Cantkier waives all rights to seek judicial review or otherwise challenge or contest the validity of this Order.

4. As an agency of the United States, the FTC need not post a security for the issuance of a preliminary injunction. Fed.R.Civ.P. 65(c).

5. This order 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 Defendant Sean Cantkier and his 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 Defendant Sean Cantkier and his 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 FTC and Defendant Sean Cantkier may begin seeking discovery, as it relates to them, 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.

ACKNOWLEDGMENT OF RECEIPT OF ORDER

IV. IT IS FURTHER ORDERED that Defendant Sean Cantkier, within three (3) business days of receipt of this Order, shall submit to counsel for the FTC a truthful sworn statement acknowledging receipt of this Order.

DISTRIBUTION OF ORDER

V. IT IS FURTHER ORDERED that Defendant Sean Cantkier 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 he places advertising, and persons who operate websites to which he refers consumers. Within five (5) business days of receipt of this Order, Defendant Sean Cantkier shall submit to counsel for the FTC 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 FTC's counsel shall be performed by overnight mail delivery, facsimile, or email to: Lawrence Hodapp, Esq., 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.

SO STIPULATED:

/s/Lawrence Hodapp
LAWRENCE HODAPP, DC Bar #221309
GREGORY A. ASHE, DC Bar #451552
RONALD ISAAC, DC Bar #355834
Federal Trade Commission


Attorneys for Plaintiff

/s/Sean Cantkier
SEAN CANTKIER, Defendant

/s/Constance K. Robinson
CONSTANCE K. ROBINSON, DC Bar #244806
BARRY M. BENJAMIN*
*(Not admitted in the District of Columbia)
Kilpatrick Stockton LLP

Attorneys for Defendant Sean Cantkier

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


COLLEEN KOLLAR-KOTELLY
United States District Judge