

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 14-23879-CIV-ALTONAGA/O'Sullivan

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

CENTRO NATURAL CORP., et al.,

Defendants, and

BIONORE, INC., et al.,

Relief Defendants.

ORDER

THIS CAUSE came before the Court upon Plaintiff, Federal Trade Commission's ("FTC" or "Commission['s]") Motion for Entry of Default Final Judgment and Permanent Injunction . . . ("Motion") [ECF No. 173], filed July 13, 2015. In its Motion, the Commission seeks a judgment against Defendant, Centro Natural Corp. ("Defendant" or "Centro Natural"). (*See id.*). The Commission filed its initial Complaint [ECF No. 1] on October 20, 2014, but Defendant Centro Natural failed to file an answer or otherwise defend this action. As a result, pursuant to Federal Rule of Civil Procedure 55(a), the Clerk entered a default as to Centro Natural on January 20, 2015. (*See* [ECF 146]). The FTC and remaining Defendants (the "Settling Defendants") stipulated to the entry of Final Orders entered by the Court on June 26, 2015. (*See* [ECF Nos. 168–171]).

The FTC filed its First Amended Complaint [ECF No. 14] for a permanent injunction and other equitable relief, pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b) and 57b, Section 814 of the Fair Debt Collection Practices Act

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("FDCPA"), 15 U.S.C. § 1692l, and the Telemarketing and Consumer Fraud and Abuse Prevention Act ("Telemarketing Act"), 15 U.S.C. §§ 6101–6108. The FTC alleged Defendants engaged in a fraudulent telemarketing scheme preying on Spanish-speaking consumers across the country, in which Defendants falsely held themselves out as court or government officials, lawyers, or their agents, and demanded that consumers pay money to "settle" debts consumers did not owe and for products consumers did not seek or want. The FTC alleged Defendants' deceptive and abusive acts and practices violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a); Section 807 of the FDCPA, 15 U.S.C. § 1692l; and the Telemarketing Sales Rule ("TSR"), 16 C.F.R. Part 310. On January 26, 2015, the Court entered a preliminary injunction as to Defendants Centro Natural Corp, Carolina Orellana, and Damian Biondi; and Relief Defendants, Bionore Inc. and Allianza Inmobiliaria Corp. (*See* [DE 152]).

FINDINGS

1. This Court has jurisdiction over this matter and Defendant Centro Natural.
2. Venue in the United States District Court for the Southern District of Florida is proper as to Defendant Centro Natural.
3. Defendant Centro Natural participated in deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FDCPA, 15 U.S.C. §§ 1692–1692p, and the FTC's Trade Regulation Rule entitled "Telemarketing Sales Rule," 16 C.F.R. Part 310.
4. The activities of Defendant Centro Natural were in or affecting commerce, as defined by Section 4 of the FTC Act, 15 U.S.C. § 44.
5. Defendant Centro Natural has been properly served with a summons and complaint as required by Federal Rule of Civil Procedure 4.

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6. Defendant Centro Natural has failed to answer or otherwise defend this action. The Clerk properly entered a default against Centro Natural on January 20, 2015.
7. Because of Centro Natural's default, the allegations in the First Amended Complaint filed in this action are taken as true.
8. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to issue injunctive and other relief against violations of the FTC Act and, in the exercise of its equitable jurisdiction, to order restitution and the disgorgement of profits resulting from Centro Natural's unlawful acts or practices, and issue other ancillary equitable relief.
9. The Court finds that, absent a permanent injunction, Centro Natural is likely to continue to engage in the activities alleged in the First Amended Complaint.
10. This Court is persuaded that the danger of future violations by Centro Natural justifies the issuance of injunctive relief.
11. Centro Natural caused consumer injury in the amount of \$1,588,141.
12. It is proper in this case to enter an equitable monetary judgment against Centro Natural for its violations of Sections 5 of the FTC Act, the FDCPA, and the Telemarketing Sales Rule." The FTC is entitled to judgment against Centro Natural of \$1,588,141, the injury caused to consumers by them, even though this amount may exceed their unjust enrichment.
13. Entry of this Order is in the public interest.

DEFINITIONS

1. "**Debt Collection Activities**" means any activities of a Debt Collector to collect or attempt to collect, directly or indirectly, a debt owed or due, or asserted to be owed or due, another.

2. "**Debt Collector**" means any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. The term also includes any creditor who, in the process of collecting its own debts, uses any name other than its own which would indicate that a third person is collecting or attempting to collect such debts. The term also includes any person to the extent such person receives an assignment or transfer of a debt in default solely for the purpose of facilitating collection of such debt.

3. "**Centro Stipulating Defendants**" means Carolina Orellana, Damian Biondi, Susana Sumbre, individually, collectively, or in any combination.

4. "**Defendants**" means Centro Natural Corp., Sumore, L.L.C., Javier Sumbre, Jessica Anzola, Carolina Orellana, Damian Biondi, Susana Sumbre, individually, collectively, or in any combination.

5. "**Defendant Centro Natural**" means Centro Natural Corp and all of its successors and assigns.

6. "**FTC**" means the Federal Trade Commission.

7. "**Receiver**" means Scott Dimond, appointed in Section X of the Stipulated Preliminary Injunction [ECF No. 131] and Section XIII of the litigated Preliminary Injunction [ECF No. 152], and any deputy receivers that shall be named by Mr. Dimond.

8. "**Receivership Defendants**" means all entities that the Court placed under the control of the Receiver in this action, including Sumore, L.L.C., Bionore, Inc. and Centro Natural Corp.

9. "**Telemarketing**" means any plan, program, or campaign that is conducted to induce the purchase of goods or services or a charitable contribution by use of one or more telephones.

ORDER

I. BAN REGARDING DEBT COLLECTION ACTIVITIES

IT IS HEREBY ORDERED that Defendant Centro Natural is permanently restrained and enjoined from engaging in Debt Collection Activities or assisting others engaged in Debt Collection Activities, whether directly or through an intermediary.

II. BAN ON TELEMARKETING

IT IS FURTHER ORDERED that Defendant Centro Natural is permanently restrained and enjoined from engaging in Telemarketing or assisting others engaged in Telemarketing, whether directly or through an intermediary.

III. PROHIBITION AGAINST MISREPRESENTATIONS

IT IS FURTHER ORDERED that Defendant Centro Natural and its officers, agents, servants, 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 good or service are permanently restrained and enjoined from misrepresenting or assisting others in misrepresenting, expressly or by implication:

- (1) a consumer is delinquent on a debt;
- (2) a consumer has a legal obligation to pay or settle a debt;
- (3) affiliation with government entities;
- (4) status as an attorney or as an employee of a law firm;
- (5) a consumer will be arrested or reported to a law enforcement agency;
- (6) a legal action has been filed or is about to be filed against the consumer; or

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(7) any other fact material to consumers concerning any good or service, such as the total costs; any material restrictions, limitations, or conditions; or any material aspect of its performance, efficacy, nature, or central characteristics.

IV. MONETARY JUDGMENT AND SURRENDER OF ASSETS

IT IS FURTHER ORDERED that:

- A. Judgment in the amount of one million, five hundred eighty-eight thousand, one hundred and forty-one dollars (\$1,588,141) is entered in favor of the FTC against Defendant Centro Natural, jointly and severally, with the Centro Stipulating Defendants in this matter, as equitable relief.
- B. Defendant Centro Natural is ordered to pay the Commission one million, five hundred eighty-eight thousand, one hundred and forty-one dollars (\$1,588,141).
- C. In partial satisfaction of the judgment against Defendant Centro Natural, any financial or brokerage institution, escrow agent, title company, commodity trading company, business entity, or person, whether located within the United States or outside the United States, that holds, controls, or maintains frozen accounts or assets of, on behalf of, or the benefit of, Defendant Centro Natural shall turn over such account or asset to the FTC or its designated agent within ten (10) business days of receiving notice of this Order by any means, including but not limited to via facsimile.
- D. 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 direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may

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apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendant Centro Natural's practices alleged in the First Amended Complaint. Any money not used for such equitable relief is to be deposited to the U.S. Treasury as disgorgement. Defendant Centro Natural has no right to challenge any actions the Commission or its representatives may take pursuant to this Subsection.

- E. Defendant Centro Natural relinquishes all dominion, control, and legal and equitable right, title, and interest in any funds paid to the fullest extent permitted by law and may not seek the return of any assets.

V. LIFTING OF THE ASSET FREEZE

IT IS FURTHER ORDERED that the freeze against the assets of Defendant Centro Natural pursuant to the Temporary Restraining Order entered by this Court on October 20, 2014 and pursuant to the Preliminary Injunction entered by the Court on January 26, 2015 shall be lifted for the sole purpose of transferring assets pursuant to this Order, and shall be dissolved upon the transfer of all such assets.

VI. CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Defendant Centro Natural, its officers, agents, servants, 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 directly or indirectly:

- A. Failing to provide sufficient customer information to enable the FTC to efficiently administer consumer redress. If a representative of the FTC requests in writing any

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information related to redress, Defendant Centro Natural must provide it, in the form prescribed by the FTC, within fourteen (14) days.

- B. Disclosing, using, or benefitting 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 in connection with telemarketing and the sale of products.
- 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 FTC.

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

VII. RECEIVERSHIP TERMINATION

IT IS FURTHER ORDERED that the Receiver shall continue to exercise full control of the Receivership Defendants and operate under all prior orders of the Court and:

- A. The Receiver is directed to, within 180 days of the date of the entry of the June 26, 2015 Stipulated Final Orders, unless good cause is shown to extend the receivership beyond 180 days, file and serve on the parties a final report ("Final Report") and request payment of fees and expenses. The Final Report shall include the total amount of funds in the receivership estate. Upon submission of the Final Report or upon this Court's Order for payment, whichever is later, the Receivership shall terminate; and

B. The Receiver is directed to transfer, after payment of the Receiver's compensation and expenses, all remaining funds of the receivership estate to the Commission, or its designee or agent, by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission.

VIII. COMPENSATION OF THE RECEIVER

IT IS FURTHER ORDERED that the Receiver and those it employs are entitled to reasonable compensation for the performance of their duties pursuant to this Order and for the costs of actual out-of-pocket expenses incurred by them, from the receivership estate.

IX. COOPERATION WITH RECEIVER

IT IS FURTHER ORDERED that Defendant Centro Natural shall cooperate fully with the Receiver in:

- A. Pursuing any and all claims by the Receiver against other persons or entities;
- B. Assisting the Receiver in defending any and all actions or claims brought against the Receiver, the receivership estate, or any Receivership Defendant by other persons or entities;
- C. Executing any documents necessary to transfer assets or ownership interests to the Receiver;
- D. Refraining from any act that would interfere with or impede the Receiver in execution of the performance of his duties.
- E. Any investigation conducted by the Receiver;
- F. Providing honest and forthright testimony under oath to the Receiver concerning any matter within the Receivership; and

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G. Waiving objection to any geographical limitations of a subpoena served on any Defendant for testimony, either at a deposition, hearing or trial.

X. ORDER ACKNOWLEDGMENTS

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

- A. Defendant Centro Natural, 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 10 years after entry of this Order, Defendant Centro Natural must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who participate in the marketing of goods or services; 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; and
- C. From each individual or entity to which Defendant Centro Natural delivered a copy of this Order, it must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

XI. COMPLIANCE REPORTING

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

- A. One year after entry of this Order, Defendant Centro Natural must submit a compliance report, sworn under penalty of perjury that: (a) identifies the primary physical, postal, and

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email address and telephone number, as designated points of contact, which representatives of the Commission may use to communicate with Defendant; (b) identifies all of that Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describes the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant; (d) describes in detail whether and how that Defendant is in compliance with each Section of this Order; and (e) provides a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission; and

- B. For 20 years after entry of this Order, Defendant Centro Natural must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following: (a) any designated point of contact; or (b) the structure of Defendant Centro Natural or any entity that it 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.
- C. Defendant Centro Natural must submit to the Commission a notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against it within 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 under the laws of the United States of

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America 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 Commission representative in writing, 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
Re: FTC v. Centro Natural Corp
Matter No. X150002

XII. RECORDKEEPING

IT IS FURTHER ORDERED that Defendant Centro Natural must create certain records for 15 years after entry of the Order, and retain each such record for 5 years. Specifically, Defendant Centro Natural, for any business that it, 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 goods 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. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission; and

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- E. A copy of each unique advertisement or other marketing material.

XIII. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendant Centro Natural's compliance with this Order, including any failure to transfer assets as required by this Order:

- A. Within 14 days of receipt of a written request from a representative of the Commission, Defendant Centro Natural 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 Defendant Centro Natural. Defendant Centro Natural must permit representatives of the Commission to interview any employee or other person affiliated with 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 Defendant or any individual or entity affiliated with 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.

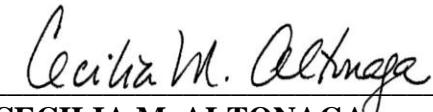
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D. Upon written request from a representative of the Commission, any credit reporting agency must furnish consumer reports concerning Defendant, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(1).

XIV. 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.

DONE AND ORDERED in Miami, Florida, this 15th day of July, 2015.


CECILIA M. ALTONAGA
UNITED STATES DISTRICT JUDGE

cc: counsel of record