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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FEDERAL TRADE COMMISSION,
Plaintiff,

v.

CD CAPITAL INVESTMENTS, LLC, *et*
al.,
Defendants.

Case no. SACV 14-01033 JLS
(RNBx)

**PERMANENT INJUNCTION
AND ORDER FOR EQUITABLE
MONETARY RELIEF AS TO
DEFENDANTS CD CAPITAL
INVESTMENTS, LLC, CD
CAPITAL, LLC, GDS
INFORMATION SERVICES,
INC., CHRISTIAN D.
QUEZADA, AND TUAN D.
DUONG**

1 For the reasons set forth in its prior orders, the Court has granted both the
2 Federal Trade Commission’s motion for summary judgment against Defendant
3 Tuan D. Duong (Doc. 157) and the FTC’s motion for default judgment against
4 Defendants CD Capital Investments, LLC, CD Capital, LLC, GDS Information
5 Services, Inc., and Christian D. Quezada (collectively, “Defendants”). Based on
6 these findings, **IT IS ORDERED:**

7
8 **DEFINITIONS**

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

10 A. **“Assisting others”** includes:

- 11 1. performing customer service functions, including receiving or
12 responding to consumer complaints;
- 13 2. formulating or providing, or arranging for the formulation or
14 provision of, any advertising or marketing material, including any
15 telephone sales script, direct mail solicitation, or the design, text, or
16 use of images of any Internet website, email, or other electronic
17 communication;
- 18 3. formulating or providing, or arranging for the formulation or
19 provision of, any marketing support material or service, including web
20 or Internet Protocol addresses or domain name registration for any
21 Internet websites, affiliate marketing services, or media placement
22 services;
- 23 4. providing names of, or assisting in the generation of, potential
24 customers;
- 25 5. performing marketing, billing, or payment services of any kind; or
26 6. acting or serving as an owner, officer, director, manager, or principal
27 of any entity.

28 B. **“Corporate Defendants”** means CD Capital Investments, LLC, CD Capital,

1 LLC, GDS Information Services, Inc.; and their successors and assigns.

2 C. **“Defendants”** means Corporate Defendants and Individual Defendants.

3 D. **“Financial product or service”** means any product, service, plan, or
4 program represented, expressly or by implication, to:

- 5 1. provide any consumer, arrange for any consumer to receive, or assist
6 any consumer in receiving, a loan or other extension of credit;
- 7 2. provide any consumer, arrange for any consumer to receive, or assist
8 any consumer in receiving, credit, debit, or stored value cards;
- 9 3. improve, repair, or arrange to improve or repair, any consumer’s
10 credit record, credit history, or credit rating; or
- 11 4. provide advice or assistance to improve any consumer’s credit record,
12 credit history, or credit rating.

13 E. **“Individual Defendants”** means Christian D. Quezada and Tuan D. Duong.

14 F. **“Person”** means any individual, group, unincorporated association, limited
15 or general partnership, corporation or other business entity.

16 G. **“Secured or unsecured debt relief product or service”** means:

- 17 1. with respect to any mortgage, loan, debt, or obligation between a person
18 and one or more secured or unsecured creditors or debt collectors, any
19 product, service, plan, or program represented, expressly or by
20 implication, to:
 - 21 (a) stop, prevent, or postpone any mortgage or deed of foreclosure
22 sale for a person’s dwelling, any other sale of collateral, any
23 repossession of a person’s dwelling or other collateral, or
24 otherwise save a person’s dwelling or other collateral from
25 foreclosure or repossession;
 - 26 (b) negotiate, obtain, or arrange a modification, or renegotiate,
27 settle, or in any way alter any terms of the mortgage, loan, debt,
28 or obligation, including a reduction in the amount of interest,

1 principal balance, monthly payments, or fees owed by a person
2 to a secured or unsecured creditor or debt collector;

- 3 (c) obtain any forbearance or modification in the timing of
4 payments from any secured or unsecured holder or servicer of
5 any mortgage, loan, debt, or obligation;
- 6 (d) negotiate, obtain, or arrange any extension of the period of time
7 within which a person may (i) cure his or her default on the
8 mortgage, loan, debt, or obligation, (ii) reinstate his or her
9 mortgage, loan, debt, or obligation, (iii) redeem a dwelling or
10 other collateral, or (iv) exercise any right to reinstate the
11 mortgage, loan, debt, or obligation or redeem a dwelling or
12 other collateral;
- 13 (e) obtain any waiver of an acceleration clause or balloon payment
14 contained in any promissory note or contract secured by any
15 dwelling or other collateral; or
- 16 (f) negotiate, obtain, or arrange (a) a short sale of a dwelling or
17 other collateral, (b) a deed-in-lieu of foreclosure, or (c) any
18 other disposition of a mortgage, loan, debt, or obligation other
19 than a sale to a third party that is not the secured or unsecured
20 loan holder.

21 The foregoing shall include any manner of claimed assistance,
22 including auditing or examining a person's application for the
23 mortgage, loan, debt, or obligation.

- 24 2. with respect to any loan, debt, or obligation between a person and one
25 or more unsecured creditors or debt collectors, any product, service,
26 plan, or program represented, expressly or by implication, to:
- 27 (a) repay one or more unsecured loans, debts, or obligations; or;
28 (b) combine unsecured loans, debts, or obligations into one or more

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new loans, debts, or obligations.

1 **ORDER**

2 **BAN ON SECURED AND UNSECURED DEBT RELIEF PRODUCTS AND**
3 **SERVICES**

4 **I. IT IS ORDERED** that Defendants, whether directly or through an
5 intermediary, are permanently restrained and enjoined from:

- 6 A. advertising, marketing, promoting, offering for sale, or selling any
7 secured or unsecured debt relief product or service; and
8 B. assisting others engaged in advertising, marketing, promoting,
9 offering for sale, or selling any secured or unsecured debt relief
10 product or service.

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12 **PROHIBITION AGAINST MISREPRESENTATIONS RELATING TO**
13 **FINANCIAL PRODUCTS AND SERVICES**

14 **II. IT IS FURTHER ORDERED** that Defendants, their officers, agents,
15 servants, employees, and attorneys, and all other persons or entities in active
16 concert or participation with any of them, who receive actual notice of this
17 Order, whether acting directly or indirectly in connection with advertising,
18 marketing, promoting, offering for sale, or selling any financial product or
19 service, are hereby permanently restrained and enjoined from
20 misrepresenting or assisting others in misrepresenting, expressly or by
21 implication, any material fact, including:

- 22 A. the terms or rates that are available for any loan or other extension of
23 credit, including:
24 1. closing costs or other fees;
25 2. the payment schedule, monthly payment amount(s), any balloon
26 payment, or other payment terms;
27 3. the interest rate(s), annual percentage rate(s), or finance
28 charge(s), and whether they are fixed or adjustable;

- 1 4. the loan amount, credit amount, draw amount, or outstanding
- 2 balance; the loan term, draw period, or maturity; or any other
- 3 term of credit;
- 4 5. the amount of cash to be disbursed to the borrower out of the
- 5 proceeds, or the amount of cash to be disbursed on behalf of the
- 6 borrower to any third parties;
- 7 6. whether any specified minimum payment amount covers both
- 8 interest and principal, and whether the credit has or can result in
- 9 negative amortization; or
- 10 7. that the credit does not have a prepayment penalty or whether
- 11 subsequent refinancing may trigger a prepayment penalty
- 12 and/or other fees.

13 B. the savings associated with the loan or other extension of credit;

14 C. the ability to improve or otherwise affect a consumer's credit record,

15 credit history, credit rating, or ability to obtain credit, including that a

16 consumer's credit record, credit history, credit rating, or ability to

17 obtain credit can be improved by permanently removing current,

18 accurate negative information from the consumer's credit record or

19 history; or

20 D. that a consumer will receive legal representation.

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22 **PROHIBITION AGAINST MISREPRESENTATIONS**

23 **RELATING TO ANY PRODUCTS OR SERVICES**

24 **III. IT IS FURTHER ORDERED** that Defendants, their officers, agents,

25 servants, employees, and attorneys, and all other persons in active concert or

26 participation with any of them, who receive actual notice of this Order,

27 whether acting directly or indirectly, in connection with advertising,

28 marketing, promoting, offering for sale, or selling any product or service are

1 hereby permanently restrained and enjoined from misrepresenting or
2 assisting others in misrepresenting, expressly or by implication, any material
3 fact, including:

- 4 A. any material aspect of the nature or terms of any refund, cancellation,
5 exchange, or repurchase policy, including the likelihood of a
6 consumer obtaining a full or partial refund, or the circumstances in
7 which a full or partial refund will be granted to the consumer;
- 8 B. that any person is affiliated with, endorsed or approved by, or
9 otherwise connected to any other person; government entity; public,
10 non-profit, or other non-commercial program; or any other program;
- 11 C. the nature, expertise, position, or job title of any person who provides
12 any product or service;
- 13 D. that any person providing a testimonial has purchased, received, or
14 used the product or service;
- 15 E. that the experience represented in a testimonial of the product or
16 service represents the person's actual experience resulting from the
17 use of the product or service under the circumstances depicted in the
18 advertisement;
- 19 F. the total costs to purchase, receive, or use, or the quantity of, the
20 product or service;
- 21 G. any material restriction, limitation, or condition on purchasing,
22 receiving, or using the product or service; or
- 23 H. any other fact material to consumers concerning any product or
24 service, including any material aspect of the performance, efficacy,
25 nature, or characteristics of the product or service.
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RESTITUTION

IV. IT IS FURTHER ORDERED that:

- A. Restitution in the amount of One Million Seven Hundred Eighty-Four Thousand, Eight Hundred Sixty-Four Dollars (\$1,784,864.00) is entered in favor of the Commission against Defendants, jointly and severally, as equitable monetary relief.
- B. Defendants are ordered to pay to the Commission One Million Seven Hundred Eighty-Four Thousand, Eight Hundred Sixty-Four Dollars (\$1,784,864.00). Such payment must be made within 7 days of entry of this Order by electronic fund transfer in accordance with instructions provided by a representative of the Commission.

ADDITIONAL MONETARY PROVISIONS

V. IT IS FURTHER ORDERED that:

- A. Defendants acknowledge that their Taxpayer Identification Numbers (Social Security Numbers or Employer Identification Numbers), which Defendants must submit to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.
- B. 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 that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants’

1 practices alleged in the Complaint. Any money not used for such
2 equitable relief is to be deposited to the U.S. Treasury as
3 disgorgement. Defendants have no right to challenge any actions the
4 Commission or its representatives may take pursuant to this
5 Subsection.

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7 **CUSTOMER INFORMATION**

8 **VI. IT IS FURTHER ORDERED** that Defendants, their officers, agents,
9 servants, employees, and attorneys, and all other persons in active concert or
10 participation with any of them, who receive actual notice of this Order,
11 whether acting directly or indirectly, are hereby permanently restrained and
12 enjoined from:

- 13 A. failing to provide sufficient customer information to enable the
14 Commission to efficiently administer consumer redress. If a
15 representative of the Commission requests in writing any information
16 related to redress, Defendants must provide it, in the form prescribed
17 by the Commission, within 14 days.
- 18 B. disclosing, using, or benefitting from customer information, including
19 the name, address, telephone number, email address, social security
20 number, other identifying information, or any data that enables access
21 to a customer's account (including a credit card, bank account, or
22 other financial account), that any Defendant obtained prior to entry of
23 this Order; and
- 24 C. failing to destroy such customer information in all forms in their
25 possession, custody, or control within 30 days after receipt of written
26 direction to do so from a representative of the Commission.

27 Provided, however, that customer information need not be disposed of, and
28 may be disclosed, to the extent requested by a government agency or

1 required by law, regulation, or court order.

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3 **ORDER ACKNOWLEDGMENTS**

4 **VII. IT IS FURTHER ORDERED** that Defendants obtain acknowledgments of
5 receipt of this Order:

6 A. Each Defendant, within 7 days of entry of this Order, must submit to
7 the Commission an acknowledgment of receipt of this Order sworn
8 under penalty of perjury.

9 B. For 10 years after entry of this Order, each Individual Defendant, for
10 any business that such Individual Defendant, individually or
11 collectively with any other Defendant, is the majority owner of or
12 controls directly or indirectly, and each Corporate Defendant, must
13 deliver a copy of this Order to: (1) all principals, officers, directors,
14 and LLC managers and members; (2) all employees, agents, and
15 representatives who participate in connection with the in connection
16 with advertising, marketing, promoting, offering for sale, or selling
17 any financial product or service; and (3) any business entity resulting
18 from any change in structure as set forth in the Section titled
19 Compliance Reporting. Delivery must occur within 7 days of entry of
20 this Order for current personnel. For all others, delivery must occur
21 before they assume their responsibilities.

22 C. From each individual or entity to which a Defendant delivered a copy
23 of this Order, that Defendant must obtain, within 30 days, a signed
24 and dated acknowledgment of receipt of this Order.

25
26 **COMPLIANCE REPORTING**

27 **VIII. IT IS FURTHER ORDERED** that Defendants make timely submissions to
28 the Commission:

1 A. One year after entry of this Order, each Defendant must submit a
2 compliance report, sworn under penalty of perjury:

3 1. Each Defendant must: (a) identify the primary physical, postal,
4 and email address and telephone number, as designated points
5 of contact, which representatives of the Commission may use to
6 communicate with that Defendant; (b) identify all of that
7 Defendant's businesses by all of their names, telephone
8 numbers, and physical, postal, email, and Internet addresses; (c)
9 describe the activities of each business, including the goods and
10 services offered, the means of advertising, marketing, and sales,
11 and the involvement of any other Defendant (which Individual
12 Defendants must describe if they know or should know due to
13 their own involvement); (d) describe in detail whether and how
14 that Defendant is in compliance with each Section of this
15 Order; (e) provide a list of all domain names held or registered
16 by any Defendant; and (f) provide a copy of each Order
17 Acknowledgment obtained pursuant to this Order, unless
18 previously submitted to the Commission.

19 2. Additionally, each Individual Defendant must: (a) identify all
20 telephone numbers and all physical, postal, email and Internet
21 addresses, including all residences; (b) identify all business
22 activities, including any business for which such Individual
23 Defendant performs services whether as an employee or
24 otherwise and any entity in which such Individual Defendant
25 has any ownership interest; and (c) describe in detail such
26 Individual Defendant's involvement in each such business,
27 including title, role, responsibilities, participation, authority,
28 control, and any ownership.

- 1 B. For 20 years after entry of this Order, each Defendant must submit a
2 compliance notice, sworn under penalty of perjury, within 14 days of
3 any change as follows:
- 4 1. Each Defendant must report any change in: (a) any designated
5 point of contact; or (b) the structure of any Corporate Defendant
6 or any entity that Defendant has any ownership interest in or
7 controls directly or indirectly that may affect compliance
8 obligations arising under this Order, including: creation,
9 merger, sale, or dissolution of the entity or any subsidiary,
10 parent, or affiliate that engages in any acts or practices subject
11 to this Order.
- 12 2. Additionally, each Individual Defendant must report any
13 change in: (a) name, including aliases or fictitious name, or
14 residence address; or (b) title or role in any business activity,
15 including any business for which such Individual Defendant
16 performs services whether as an employee or otherwise and any
17 entity in which such Individual Defendant has any ownership
18 interest, and identify the name, physical address, and any
19 Internet address of the business or entity.
- 20 C. Each Defendant must submit to the Commission notice of the filing of
21 any bankruptcy petition, insolvency proceeding, or similar proceeding
22 by or against such Defendant within 14 days of its filing.
- 23 D. Any submission to the Commission required by this Order to be
24 sworn under penalty of perjury must be true and accurate and comply
25 with 28 U.S.C. § 1746, such as by concluding: “I declare under
26 penalty of perjury under the laws of the United States of America that
27 the foregoing is true and correct. Executed on: _____” and supplying
28 the date, signatory’s full name, title (if applicable), and signature.

1 E. Unless otherwise directed by a Commission representative in writing,
2 all submissions to the Commission pursuant to this Order must be
3 emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S.
4 Postal Service) to: Associate Director for Enforcement, Bureau of
5 Consumer Protection, Federal Trade Commission, 600 Pennsylvania
6 Avenue NW, Washington, DC 20580. The subject line must begin:
7 FTC v. CD Capital Investments, LLC, et al., Case No. SAC 14-
8 01033-JLS-(RNBx), X140035.
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10 RECORDKEEPING

11 **IX. IT IS FURTHER ORDERED** that Defendants must create certain records
12 for 20 years after entry of the Order, and retain each such record for 5 years.
13 Specifically, Corporate Defendants and each Individual Defendant for any
14 business that such Defendant, individually or collectively with any other
15 Defendant, is a majority owner of or controls directly or indirectly, must
16 create and retain the following records:

- 17 A. accounting records showing the revenues from all goods or services
18 sold;
- 19 B. personnel records showing, for each person providing services,
20 whether as an employee or otherwise, that person's: name; addresses;
21 telephone numbers; job title or position; dates of service; and (if
22 applicable) the reason for termination;
- 23 C. records of all consumer complaints and refund requests, whether
24 received directly or indirectly, such as through a third party, and any
25 response;
- 26 D. all records necessary to demonstrate full compliance with each
27 provision of this Order, including all submissions to the Commission;
28 and

1 E. a copy of each unique advertisement or other marketing material.
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3 **COMPLIANCE MONITORING**

4 **X. IT IS FURTHER ORDERED** that, for the purpose of monitoring
5 Defendants' compliance with this Order, and any failure to transfer any
6 assets as required by this Order:

7 A. Within 14 days of receipt of a written request from a representative of
8 the Commission each Defendant must submit additional compliance
9 reports or other requested information, which must be sworn under
10 penalty of perjury; appear for depositions; and produce documents for
11 inspection and copying. The Commission is also authorized to obtain
12 discovery, without further leave of court, using any of the procedures
13 prescribed by Federal Rules of Civil Procedure 29, 30 (including
14 telephonic depositions), 31, 33, 34, 36, 45, and 69.

15 B. For matters concerning this Order, the Commission is authorized to
16 communicate directly with each Defendant. Defendants must permit
17 representatives of the Commission to interview any employee or other
18 person affiliated with any Defendant who has agreed to such an
19 interview. The person interviewed may have counsel present.

20 C. The Commission may use all other lawful means, including posing,
21 through its representatives as consumers, suppliers, or other
22 individuals or entities, to Defendants or any individual or entity
23 affiliated with Defendants, without the necessity of identification or
24 prior notice. Nothing in this Order limits the Commission's lawful
25 use of compulsory process, pursuant to Sections 9 and 20 of the FTC
26 Act, 15 U.S.C. §§ 49, 57b-1.

27 D. Upon written request from a representative of the Commission, any
28 consumer reporting agency must furnish consumer reports concerning

1 Individual Defendants, pursuant to Section 604(1) of the Fair Credit
2 Reporting Act, 15 U.S.C. § 1681b(a)(1).
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5 **RETENTION OF JURISDICTION**

6 **XII. IT IS FURTHER ORDERED** that this Court retains jurisdiction of this
7 matter for purposes of construction, modification, and enforcement of this
8 Order.
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10 DATE: August 22, 2016
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15 HON. JOSEPHINE L. STATON
16 UNITED STATES DISTRICT COURT
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