

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

09-61840

Case No.

CIV. SEITZ

MAGISTRATE JUDGE
O'SULLIVAN

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

1ST GUARANTY MORTGAGE CORP., a
corporation,

SPECTRUM TITLE, INC., a corporation,

CROSSLAND CREDIT CONSULTING CORP.,
also d/b/a Crossland Credit Consultants Corp., a
corporation,

SCORELEAPER, LLC, a limited liability
company,

STEPHEN LALONDE, individually and as an
officer of Crossland Credit Consulting Corp. and
1st Guaranty Mortgage Corp.,

AMY LALONDE, individually and as an officer
of Spectrum Title, Inc., and

MICHAEL PETROSKI, individually,

Defendants.

COMPLAINT FOR INJUNCTIVE
AND OTHER EQUITABLE RELIEF

FILED BY _____
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STEVEN M. LARIMORE
CLERK U.S. DIST. CT.
S.D. OF FLA.-FTL

Plaintiff, the Federal Trade Commission ("FTC"), for its Complaint alleges:

1. The FTC brings this action under Sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b, Section 410(b) of the Credit Repair Organizations Act, 15 U.S.C. § 1679h(b), and the Telemarketing and Consumer Fraud and

Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108, to obtain temporary, preliminary, and permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), the Credit Repair Organizations Act, 15 U.S.C. §§ 1679-1679j, and the FTC’s “Telemarketing Sales Rule” (“TSR”), 16 C.F.R. Part 310.

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), 57b, 6102(c), and 6105(b).

3. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) 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 enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC also enforces the Credit Repair Organizations Act, 15 U.S.C. §§ 1679-1679j, which prohibits unfair or deceptive advertising and business practices by credit repair organizations. The FTC also enforces the Telemarketing Act, 15 U.S.C. §§ 6101-6108. Pursuant to the Telemarketing Act, the FTC promulgated and enforces the TSR, 16 C.F.R. Part 310, which prohibits deceptive and abusive telemarketing acts or practices.

5. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act, the Credit Repair Organizations Act, and the TSR, and to secure such equitable relief as may be appropriate in each case, including rescission or

reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b), 56(a)(2)(A)-(B), 57b, 1679h(b), 6102(c), and 6105(b).

DEFENDANTS

6. Defendant 1st Guaranty Mortgage Corporation, Inc. (“1st Guaranty”), is a Florida corporation with its principal place of business at 5100 North Dixie Highway, Oakland Park, FL 33334. 1st Guaranty transacts or has transacted business in this district and throughout the United States.

7. Defendant Spectrum Title, Inc. (“Spectrum”), is a Florida corporation with its principal place of business at 5100 North Dixie Highway, Oakland Park, FL 33334. Spectrum transacts or has transacted business in this district and throughout the United States.

8. Defendant Crossland Credit Consulting Corp. (“Crossland”), also doing business as Crossland Credit Consultants Corporation, is a Florida corporation with its principal place of business at 5100 North Dixie Highway, Oakland Park, FL 33334. Crossland transacts or has transacted business in this district and throughout the United States.

9. Defendant Scoreleaper, LLC (“Scoreleaper”), is a Florida limited liability company with its principal place of business at 5100 North Dixie Highway, Oakland Park, FL 33334. Scoreleaper also does business from 3101 North Federal Highway, Ste. 700, Ft. Lauderdale, FL 33306. Scoreleaper transacts or has transacted business in this district and throughout the United States.

10. Defendant Stephen Lalonde, is the president and manager of 1st Guaranty and Crossland. At times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices, related to mortgage loan refinancing, credit repair, and mortgage loan modification, of

1st Guaranty, Spectrum, Crossland, and Scoreleaper, set forth in this Complaint. In connection with the matters alleged herein, Defendant Stephen Lalonde transacts or has transacted business in this district and throughout the United States.

11. Defendant Amy Lalonde has been president and director of Spectrum and participated directly in the mortgage financing activities of Spectrum and 1st Guaranty. At times material to this Complaint, acting alone or in concert with others, she has formulated, directed, controlled, had the authority to control, or participated in the acts and practices related to mortgage loan refinancing set forth in this Complaint. In connection with the matters alleged herein, Defendant Amy Lalonde transacts or has transacted business in this district and throughout the United States.

12. Defendant Michael Petroski is a manager of 1st Guaranty and Crossland and has held himself out to consumers as the owner of Crossland. At times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices related to credit repair and mortgage loan modification set forth in this Complaint. In connection with the matters alleged herein, Defendant Petroski transacts or has transacted business in this district and throughout the United States.

COMMERCE

13. At all times material to this Complaint, Defendants have 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.

DEFENDANTS' BUSINESS ACTIVITIES

Mortgage Loan Refinancing Activities

14. Beginning in at least 2007, Defendants 1st Guaranty, Spectrum, Stephen Lalonde, and Amy Lalonde advertised, marketed, promoted, offered for sale, and sold home mortgage loan refinancing services to consumers in Florida and throughout the United States. Defendants 1st Guaranty, Spectrum, Stephen Lalonde, and Amy Lalonde are hereafter identified collectively as "Mortgage Refinance Defendants."

15. Mortgage Refinance Defendants advertised their services through the Internet, including at www.1stguarantymortgage.com. Mortgage Refinance Defendants' Internet advertisements encouraged consumers to contact 1st Guaranty via telephone for further information. Consumers who called typically spoke with a 1st Guaranty sales representative.

16. 1st Guaranty represented to consumers that the company would obtain refinanced home mortgage loans with more favorable terms and use the proceeds from those new loans to pay off the balance of consumers' existing home loans promptly.

17. Consumers paid a percentage of their closing costs as a fee for 1st Guaranty's services.

18. However, in numerous instances, Mortgage Refinance Defendants failed to pay off the balances of consumers' original mortgage loans promptly with refinanced mortgage loans as promised, and diverted funds for their own use. In numerous instances, the new loan money was transmitted to Spectrum, a company headed by Amy Lalonde, and Spectrum failed to use the monies to fully and promptly pay off consumers' original mortgage companies.

19. Consumers who enrolled with 1st Guaranty stopped making payments on their old mortgage loans after learning that 1st Guaranty had obtained a new mortgage loan for them and

signing the appropriate closing papers. They learned of 1st Guaranty's failure to pay off their original mortgage loans as promised when they received notice from their mortgage companies that they had fallen behind on their payments.

20. Consumers who called to complain about 1st Guaranty or Spectrum spoke to Stephen Lalonde, Amy Lalonde, and others. These individuals told consumers that the new mortgage loan money mistakenly went to another bank or account and assured them that the problems would be corrected.

21. In some cases, money was eventually transferred to pay off the original mortgage loans, but such payments were incomplete and/or late.

22. Due to Mortgage Refinance Defendants' failure to pay off consumers' original mortgage loans in a full and timely manner, some consumers received default, foreclosure, or repossession notices and suffered damage to their credit worthiness.

Credit Repair Activities

23. Since at least May 2008, Defendants 1st Guaranty, Crossland, Stephen Lalonde, and Michael Petroski have advertised, marketed, promoted, offered for sale, and sold credit repair services to consumers in Florida and throughout the United States. Since at least June 2009, Defendant Scoreleaper has advertised, marketed, promoted, offered for sale, and sold credit repair services to consumers in Florida and throughout the United States. Defendants 1st Guaranty, Crossland, Scoreleaper, Stephen Lalonde, and Michael Petroski are hereafter identified collectively as "Credit Repair Defendants."

24. Credit Repair Defendants pitch their services to consumers who are seeking home mortgages but whose poor credit scores prevent them from qualifying for such mortgages.

25. Credit Repair Defendants advertise their services through the Internet. These Internet advertisements encourage consumers to call for further information. Those who call the company typically speak with a sales representative.

26. Sales representatives of Credit Repair Defendants tell consumers that they can remove negative items from their credit reports, even if the reports are accurate, by challenging such items with dispute letters to the credit reporting agencies. Credit Repair Defendants further claim that, within 30 to 120 days, they will raise consumers' credit scores to levels that will enable them to obtain home mortgages through 1st Guaranty, and that Credit Repair Defendants will obtain a mortgage for them with 1st Guaranty.

27. Credit Repair Defendants make such representations based solely on consumers' oral statements and a cursory review of summary information in consumers' credit reports, and without looking at documents underlying such reports. Credit Repair Defendants even make such representations to consumers who have recently filed for bankruptcy.

28. Consumers who use Credit Repair Defendants' services are asked to sign a contract and pay approximately \$695. The fee must be paid in full before Credit Repair Defendants will provide the promised credit repair services. Consumers generally pay by credit or debit card.

29. In numerous instances, Credit Repair Defendants do not improve consumers' credit scores and do not obtain home loans for them. Moreover, Credit Repair Defendants cannot guarantee that they will obtain a higher credit score or a home loan for consumers based solely upon consumers' oral statements and a cursory examination of their credit reports.

30. Consumers who call or email Credit Repair Defendants to complain often receive no response.

Mortgage Loan Modification Activities

31. Since at least January 2009, Defendants 1st Guaranty, Crossland, Stephen Lalonde, and Michael Petroski have advertised, marketed, promoted, offered for sale, and sold home mortgage loan modification services to consumers in Florida and throughout the United States. Since at least May 2009, Defendant Scoreleaper has advertised, marketed, promoted, offered for sale, and sold home mortgage loan modification services to consumers in Florida and throughout the United States. Defendants 1st Guaranty, Crossland, Scoreleaper, Stephen Lalonde, and Michael Petroski are hereafter identified collectively as “Loan Modification Defendants.”

32. Loan Modification Defendants pitch their services to consumers who are seeking to modify their existing home mortgages to obtain more favorable terms.

33. Loan Modification Defendants advertise their services through the Internet. Loan Modification Defendants’ Internet advertisements encourage consumers to call for further information. Those who call typically speak with a sales representative.

34. Loan Modification Defendants represent to consumers that within as little as two weeks, they will obtain modified mortgage loans for consumers with substantially reduced interest rates and/or monthly payments.

35. Consumers pay Loan Modification Defendants fees as high as \$1,295. Consumers pay at least some of this money, a processing fee, before defendants perform any of their alleged services.

36. In fact, in numerous instances, Loan Modification Defendants do not obtain modified mortgage loans for consumers.

THE CREDIT REPAIR ORGANIZATIONS ACT

37. The Credit Repair Organizations Act took effect on April 1, 1997, and has since that date remained in full force and effect.

38. The Credit Repair Organizations Act defines a “credit repair organization” as:

[A]ny person who uses any instrumentality of interstate commerce or the mails to sell, provide, or perform (or represent that such person can or will sell, provide, or perform) any service, in return for the payment of money or other valuable consideration, for the express or implied purpose of . . . improving any consumer’s credit record, credit history, or credit rating[.]

15 U.S.C. § 1679a(3).

39. The purposes of the Credit Repair Organizations Act, according to Congress, are:

(1) to ensure that prospective buyers of the services of credit repair organizations are provided with the information necessary to make an informed decision regarding the purchase of such services; and
(2) to protect the public from unfair or deceptive advertising and business practices by credit repair organizations.

15 U.S.C. § 1679(b).

40. The Credit Repair Organizations Act prohibits all persons from making or using any untrue or misleading representation of the services of the credit repair organization. 15

U.S.C. § 1679b(a)(3).

41. The Credit Repair Organizations Act prohibits credit repair organizations from charging or receiving any money or other valuable consideration for the performance of any service which the credit repair organization has agreed to perform before such service is fully performed. 15 U.S.C. § 1679b(b).

42. Pursuant to Section 410(b)(1) of the Credit Repair Organizations Act, 15 U.S.C. § 1679h(b)(1), any violation of any requirement or prohibition of the Credit Repair Organizations

Act constitutes an unfair or deceptive act or practice in commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

VIOLATIONS OF THE CREDIT REPAIR ORGANIZATIONS ACT

COUNT ONE

43. In numerous instances, in connection with the advertising, marketing, promotion, offering for sale, or sale of services to consumers by a credit repair organization, as that term is defined in Section 403(3) of the Credit Repair Organizations Act, 15 U.S.C. § 1679a(3), Credit Repair Defendants have made untrue or misleading representations to induce consumers to purchase their credit repair services, including, but not limited to, representations that Credit Repair Defendants can remove truthful, negative items from consumers' credit reports, and thereby substantially improve the consumers' credit scores and use the improved scores to obtain successfully home mortgages for the consumers.

44. Credit Repair Defendants have thereby violated Section 404(a)(3) of the Credit Repair Organizations Act, 15 U.S.C. § 1679b(a)(3).

COUNT TWO

45. In numerous instances, in connection with their operation as a credit repair organization, as that term is defined in Section 403(3) of the Credit Repair Organizations Act, 15 U.S.C. § 1679a(3), Credit Repair Defendants have charged or received money or other valuable consideration for the performance of credit repair services before such services were fully performed.

46. Credit Repair Defendants have thereby violated Section 404(b) of the Credit Repair Organizations Act, 15 U.S.C. § 1679b(b).

THE TELEMARKETING SALES RULE

47. Congress directed the FTC to prescribe rules prohibiting abusive and deceptive telemarketing acts or practices pursuant to the Telemarketing Act, 15 U.S.C. §§ 6101-6108. The FTC adopted the original Telemarketing Sales Rule in 1995, extensively amended it in 2003, and amended certain sections thereafter. 16 C.F.R. Part 310.

48. Credit Repair Defendants are “seller[s]” or “telemarketer[s]” engaged in “telemarketing,” as those terms are defined in the TSR, 16 C.F.R. § 310.2(z), (bb), and (cc).

49. The TSR prohibits sellers and telemarketers from requesting or receiving an advance payment for a loan or other extension of credit, which they have guaranteed or represented they can obtain with a high likelihood of success. 16 C.F.R. § 310.4(a)(4).

50. Pursuant to Section 3(c) of the Telemarketing Act, 15 U.S.C. § 6102(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the TSR constitutes an unfair or deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

VIOLATIONS OF THE TELEMARKETING SALES RULE

COUNT THREE

51. In numerous instances, the Credit Repair Defendants have requested or received an advance payment for a loan or other extension of credit, which they have guaranteed or represented they can obtain with a high likelihood of success.

52. Defendants’ practices as alleged in Paragraph 51 are deceptive telemarketing practices that violate Section 310.4(a)(4) of the TSR, 16 C.F.R. § 310.4(a)(4).

THE FTC ACT

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

54. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

VIOLATIONS OF THE FTC ACT

COUNT FOUR

55. In numerous instances in connection with the advertising, marketing, promotion, offering for sale, or sale of credit repair services, Credit Repair Defendants have represented, directly or indirectly, expressly or by implication, that they can remove truthful, negative items from consumers’ credit reports, and thereby substantially improve the consumers’ credit scores and use the improved scores to obtain successfully home mortgages for the consumers.

56. In truth and in fact, in numerous of these instances, Credit Repair Defendants have not removed truthful, negative items from consumers’ credit reports, thereby improving consumers’ credit scores and using the improved scores to obtain successfully mortgages for consumers.

57. Therefore, Credit Repair Defendants’ representations as set forth in Paragraph 55 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).

COUNT FIVE

58. In numerous instances in connection with the advertising, marketing, promotion, offering for sale, or sale of home mortgage loan refinancing services, Mortgage Refinance Defendants represented, directly or indirectly, expressly or by implication, that they would

obtain refinanced home mortgage loans for consumers and use the proceeds of those loans to pay off consumers' existing mortgage loans fully and promptly.

59. In truth and in fact, in numerous of these instances, Mortgage Refinance Defendants did not use the proceeds to fully and promptly pay off consumers' existing mortgage loans.

60. Therefore, Mortgage Refinance Defendants' representations as set forth in paragraph 58 are false and misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act.

COUNT SIX

61. In numerous instances in connection with the advertising, marketing, promotion, offering for sale, or sale of home mortgage loan modification services, Loan Modification Defendants have represented, directly or indirectly, expressly or by implication, that they will obtain for consumers mortgage loan modifications that will make consumers' mortgage payments substantially more affordable.

62. In truth and in fact, in numerous of these instances, Loan Modification Defendants have not obtained for consumers mortgage loan modifications that have made consumers' mortgage payments substantially more affordable.

63. Therefore, Loan Modification Defendants' representations as set forth in Paragraph 61 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

64. Consumers have suffered and will continue to suffer substantial injury as a result of Defendants' violations of the FTC Act, the Credit Repair Organizations Act, and the TSR. In

addition, Defendants have been unjustly enriched as a result of their unlawful acts or practices. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

65. 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 or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of any provision of law enforced by the FTC.

66. Section 19 of the FTC Act, 15 U.S.C. § 57b, Section 410(b) of the Credit Repair Organizations Act, 15 U.S.C. § 1679h(b), and Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b), authorize this Court to grant such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the Credit Repair Organizations Act and the TSR, including the rescission or reformation of contracts, and the refund of money.

PRAYER FOR RELIEF

Wherefore, Plaintiff FTC, pursuant to Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, Section 410(b) of the Credit Repair Organizations Act, 15 U.S.C. § 1679h(b), Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(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, including, but not limited to, temporary and

preliminary injunctions, an order freezing assets, immediate access, and the appointment of a receiver;

B. Enter a permanent injunction to prevent future violations of the FTC Act, the Credit Repair Organizations Act, and the TSR by Defendants;

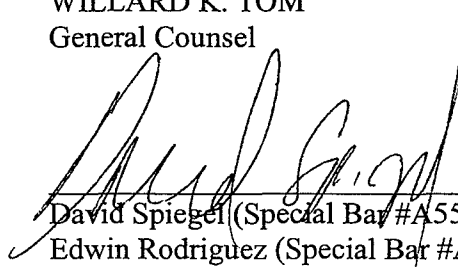
C. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act, the Credit Repair Organizations Act, and the TSR, including, but not limited to, rescission or reformation of contracts, restitution, the refund of monies paid, and the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

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.

Dated: *November 17, 2009*

Respectfully submitted,

WILLARD K. TOM
General Counsel



David Spiegel (Special Bar #A5500392)
Edwin Rodriguez (Special Bar #A5500818)
Federal Trade Commission
600 Pennsylvania Avenue, N.W., NJ-2122
Washington, D.C. 20580
Tel: (202) 326-3281 (Spiegel)
Tel: (202) 326-3147 (Rodriguez)
Fax: (202) 326-2558
Email: dspiegel@ftc.gov; erodriguez@ftc.gov

Attorneys for Plaintiff
FEDERAL TRADE COMMISSION