

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

**DEBT RELIEF USA, INC.,
a corporation,**

**KELLY REILLY, Individually and as an
officer of the corporation,**

**ALVIN BELL, Individually and as an
officer of the corporation,**

**JAMES WOJCIK, Individually and as an
officer of the corporation, and**

**VALERIE LEATH, Individually and as a
manager of the corporation,**

Defendants.

Civil Action No. 3:11-CV-2059-N

Plaintiff Federal Trade Commission has been represented by the attorneys whose names appear hereafter and Defendant Reilly has acted *pro se* in this matter. Plaintiff Federal Trade Commission and Defendant Reilly have agreed to entry of this Stipulated Final Judgment and Order for Permanent Injunction (“Order”), without adjudication of any issue of fact or law;

THEREFORE, on the joint motion of Plaintiff and Defendant Reilly, it is **ORDERED, ADJUDGED, and DECREED** as follows:

FINDINGS

1. This Court has jurisdiction of the subject matter of this case and of the parties.
2. Venue in this district is proper under 28 U.S.C. § 1391(b) and (c), and 15 U.S.C. § 53(b).
3. The activities of Defendant Reilly as alleged in the Complaint are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
4. The allegations of the Complaint state a claim upon which relief may be granted against Defendant Reilly under Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a) and 53(b).
5. Defendant Reilly neither admits nor denies any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendant Reilly admits the facts necessary to establish jurisdiction.
6. Plaintiff has authority under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), to seek the relief it has requested.

7. Defendant Reilly stipulates to the entry of this Order freely and without coercion. Defendant Reilly further acknowledges that he has read the provisions of this Order and is prepared to abide by them.

8. Defendant Reilly waives all rights to seek appellate review or otherwise challenge or contest the validity of this Order.

9. Defendant Reilly waives all claims that may arise under the Equal Access to Justice Act, 20 U.S.C. § 2412, concerning the prosecution of this action to date. Defendant Reilly also waives any claim against Plaintiff and its employees, representatives, or agents.

10. Entry of this Order is in the public interest.

11. Each party shall bear its own costs and attorneys' fees incurred in this action.

DEFINITIONS

represented, expressly or by implication, to assist or attempt to assist the consumer with any of the following:

1. stopping, preventing, or postponing any mortgage or deed of trust foreclosure sale for the consumer's dwelling, any repossession of the consumer's dwelling, or otherwise saving the consumer's dwelling from foreclosure or repossession;
2. negotiating, obtaining, or arranging a modification of any term of a dwelling loan,

K. **“Person”** means a natural person, an organization or other legal entity, including a corporation, partnership, sole proprietorship, limited liability company, association, cooperative, or any other group or combination acting as an entity.

L. **“Plaintiff”** or **“Commission”** means the Federal Trade Commission.

M. **“Tax relief product or service”** means any good, service, plan, or program, represented, expressly or by implication, to renegotiate, settle, or alter the terms of a tax obligation between a person and a taxing entity.

ORDER

I. BAN ON DEBT RELIEF, TAX RELIEF, AND MORTGAGE ASSISTANCE RELIEF PRODUCTS OR SERVICES

IT IS THEREFORE ORDERED that Defendant Reilly, whether acting directly or through any other person, is permanently restrained and enjoined from:

A. Advertising, marketing, promoting, offering for sale, or selling any debt relief product or service, tax relief product or service, or mortgage assistance relief product or service; and

B. Assisting others engaged in advertising, marketing, promoting, offering for sale, or selling any debt relief product or service, tax relief product or service, or mortgage assistance relief product or service.

II. PROHIBITED MISREPRESENTATIONS RELATING TO FINANCIAL RELATED PRODUCTS OR SERVICES

IT IS FURTHER ORDERED that Defendant Reilly and his officers, agents, servants, employees, and attorneys, and those persons or entities in active concert or participation with

- A. Misrepresenting or assisting others in misrepresenting, expressly or by implication, any fact material to a consumer's decision to purchase or use any product or service, including, but not limited to, any misrepresentation:
1. About the total cost to purchase, receive, or use any product or service;
 2. About any material restrictions, limitations, or conditions to purchase, receive, or use any product or service; or
 3. About any material aspect of the nature or terms of a refund, cancellation, exchange, or repurchase policy for any product or service.

B. Representing or assisting others in representing, expressly or by implication, any material aspect of the performance, efficacy, capability, nature, or central characteristic of any product or service, unless, at the time such representation is made, Defendant Reilly possesses and relies upon a reasonable basis to substantiate that the representation is true.

IV. DUTY TO PROTECT CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Defendant Reilly and his officers, agents, servants, employees, and attorneys, and those persons or entities in active concert or participation with him 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 permanently restrained and enjoined from:

A. Disclosing, selling, using, or receiving any benefit 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), of any person which was obtained by any Defendant prior to entry of this Order in connection with Defendants' debt relief service; and

B. Failing to dispose of customer information described in Subsection A of this Section, titled "Duty to Protect Customer Information," in all forms in their possession, custody, or control within thirty (30) days after entry of this Order. Disposal shall be by means that protect against unauthorized access to the customer information, such as by burning, pulverizing, or shredding any papers, and by erasing or destroying any electronic media, to ensure that the customer information cannot practicably be read or reconstructed.

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 a law, regulation, or court order.

V. PROHIBITION ON COLLECTING ACCOUNTS

IT IS FURTHER ORDERED that Defendant Reilly and his officers, agents, servants, employees, and attorneys, and those persons or entities in active concert or participation with him 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 permanently restrained and enjoined from: (a) attempting to collect, collecting, selling, assigning, or otherwise transferring any right to collect payment for debt relief services from any consumer who purchased or agreed to purchase any debt relief services from Defendants prior to the entry of this Order and (b) from withdrawing funds from any consumer's bank account pursuant to any agreement relating to Defendants' debt relief service.

VI. MONETARY JUDGMENT

IT IS FURTHER ORDERED that:

A. Judgment for equitable monetary relief is entered against Defendant Reilly, jointly and severally, in the amount of TWENTY THREE MILLION, THREE HUNDRED NINETY-ONE THOUSAND, FOUR HUNDRED NINETY EIGHT DOLLARS (\$23,391,498), *provided, however*, that this judgment shall be suspended subject to the conditions set forth in the Section of this Order titled “Right to Reopen.”

B. In the event a monetary payment under this Stipulated Judgment becomes due, all funds paid to the Commission pursuant to this Order shall be deposited into a fund administered by the Commission or its agent to be used for equitable relief, including, but not limited to, restitution and any attendant expenses for the administration of the equitable relief. Defendant Reilly shall cooperate fully to assist the Commission in identifying consumers who may be entitled to restitution under this Order. In the event that direct restitution to consumers is wholly or partially impracticable or funds remain after restitution is completed, the Commission may apply any remaining funds for other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants’ practices alleged in the Complaint. Any funds not used for the equitable relief shall be deposited to the United States Treasury as disgorgement. Defendant Reilly shall have no right to challenge the Commission’s choice of remedies under this Section and shall have no right to contest the manner of distribution chosen by the Commission.

C. If Defendant Reilly obtains a credit or refund of any federal income taxes or penalties paid for tax years 2011 and 2012, then he shall promptly pay the Commission the

amount of the credit or refund, together with any interest he has earned in connection with the credit or refund.

To ensure Defendant Reilly's compliance with this Subsection:

1. Defendant Reilly shall deliver to the Commission copies of all completed and signed federal income tax returns and all amended returns, including all attached forms, schedules, and statements, that he files for tax years 2011 and 2012. These copies shall be delivered to the Commission within ten (10) days after each return or amended return is filed with the IRS; and
2. Within ten (10) days after Defendant Reilly's final date allowed under IRS rules to file an amended federal income tax return for tax years 2011 and 2012, he shall sign and submit to the IRS a Form 4506, along with the Form 4506 fee, directing the IRS to send to the Commission copies of his original federal income tax returns and all amended tax returns filed with the IRS for tax years 2011 and 2012.

D. In the event of default on any obligation to make payment under this Order, interest, computed pursuant to 28 U.S.C. § 1961, as amended, shall accrue from the date of default to the date of payment, and shall immediately become due and payable.

E. Defendant Reilly relinquishes all dominion, control, and title to the funds paid to the fullest extent permitted by law. Defendant Reilly shall make no claim to or demand for return of the funds, directly or indirectly, through counsel or otherwise.

F. Defendant Reilly agrees that the facts as alleged in the Complaint filed in this action shall be taken as true without further proof in any bankruptcy case or subsequent civil litigation pursued by the Commission to enforce its rights to any payment or money judgment

pursuant to this Order, including, but not limited to, a nondischargeability complaint in any bankruptcy case. Defendant Reilly further stipulates and agrees that the facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and that this Order shall have collateral estoppel effect for such purposes.

G. In accordance with 31 U.S.C. § 7701, Defendant Reilly is required, unless he already has done so, to furnish the Commission with taxpayer identifying numbers (Social Security numbers or employer identification numbers), which shall be used for purposes of collecting and reporting on any delinquent amount arising out of his relationship with the government. Defendant Reilly is further required, unless he already has done so, to provide the Commission with clear, legible, and full-size photocopies of all valid driver's licenses that he possesses, which will be used for reporting and compliance purposes.

H. This judgment for equitable monetary relief is solely remedial in nature. No portion of any payments made under the judgment shall be deemed a payment of any fine, penalty, punitive assessment, or forfeiture.

I. Proceedings instituted under this Section are in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including any other proceedings the Commission may initiate to enforce this Order.

VII. RIGHT TO REOPEN

IT IS FURTHER ORDERED that:

A. The Commission's agreement to this Order and the Court's approval are expressly premised upon the truthfulness, accuracy, and completeness of the sworn financial

statements and all attachments signed by Defendant Reilly on February 23, 2011 and February 2, 2012, the information provided by sworn statements dated March 12, 2011, August 3, 2012, August 13, 2012, and September 6, 2012, and the information contained in his 2005, 2006, 2007, 2008, 2009, and 2010 income tax returns provided directly to the FTC from the Internal Revenue Service pursuant to Defendant Reilly's authorization. Defendant Reilly stipulates that all financial information he submitted to the Commission or authorized the Internal Revenue Service to provide to the Commission is truthful, accurate, and complete. The documents submitted contain material information upon which the Commission relied in negotiating and agreeing to the terms of this Order.

B. If, upon motion by the Commission, the Court determines that Defendant Reilly failed to disclose any material asset, materially misrepresented the value of any asset, or made any other material misrepresentation or omission in his financial disclosures, then the suspension of the judgment, ordered in Subsection A of the Section titled "Monetary Judgment," shall be terminated and the entire judgment amount shall be entered against Defendant Reilly. The reinstated judgment shall become immediately due and payable by Defendant Reilly, and interest computed at the rate prescribed under 28 U.S.C. § 1961, as amended, shall immediately begin to accrue on any unpaid balance.

C. In all other respects this Order shall remain in full force and effect unless otherwise ordered by the Court.

D. Proceedings instituted under this Section would be in addition to, and not in lieu of, any other civil or criminal remedies as may be provided by law, including any other proceedings that the Commission may initiate to enforce this Order.

VIII. COOPERATION WITH FEDERAL TRADE COMMISSION

IT IS FURTHER ORDERED that Defendant Reilly shall cooperate in good faith with representatives of the Commission in this case and in any investigation related to or associated with the transactions or occurrences that are the subject of the Commission's Complaint.

Defendant Reilly shall appear at such places and times as a Commission representative shall reasonably request, upon five days written notice, for interviews, conferences, pretrial discovery, review of documents, and for such other matters as may be reasonably requested, and shall provide truthful testimony in any trial, deposition, or other proceeding, without the service of a subpoena.

IX. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of (i) monitoring and investigating compliance with any provision of this Order, and (ii) investigating the accuracy of Defendant Reilly's financial statements upon which the Commission's eTJMN2t0N Td(10N Td)-1(slyof DefendNG)TJ 9 T

2. having its representatives pose as consumers and suppliers to Defendant Reilly, his employees, or any other entity managed or controlled in whole or in part by Defendant Reilly, without the necessity of identification or prior notice; and

C. Defendant Reilly shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to any conduct subject to this Order. The person interviewed may have counsel present.

Provided, however, that nothing in this Order shall limit the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49 and 57b-1, to obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

X. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that, in order that compliance with the provisions of this Order may be monitored:

A. For a period of four (4) years from the date of entry of this Order, Defendant Reilly shall notify the Commission of the following:

1. any changes in his residence, mailing addresses, and telephone numbers, within ten (10) days of the date of the change;

2. any changes in his employment status (including self-employment) and

Reilly is affiliated with, employed by, creates or forms, or performs services for; a detailed description of the nature of the business; and a detailed description of his duties and responsibilities in connection with the business or employment;

3. any changes in Defendant Reilly's name or use of any aliases or fictitious names within ten (10) days of the date of the change; and

4. any changes in any business entity that Defendant Reilly directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under this Order, including, but not limited to: incorporation or other organization; a dissolution, assignment, sale, merger, or other action; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; or a change in the business name or address, at least thirty (30) days prior to the change, *provided* that, with respect to any change in the business entity about which Defendant Reilly learns less than thirty (30) days prior to the date the action is to take place, he shall notify the Commission as soon as is practicable after obtaining the knowledge.

B. One hundred eighty (180) days after the date of entry of this Order and annually thereafter for a period of four (4) years, Defendant Reilly shall provide a written report to the Commission, which is true and accurate and sworn to under penalty of perjury, setting forth in detail the manner and form in which he has complied and is complying with this Order. This report shall include, but not be limited to:

1. Defendant Reilly's then-current residence address, mailing addresses, and telephone numbers;

2. Defendant Reilly's then-current employment status (including self-employment), including the name, addresses, and telephone numbers of each business that he is affiliated with, employed by, or performs services for; a detailed description of the nature of the business; and a detailed description of Defendant Reilly's duties and responsibilities in connection with the business or employment; and

3. a copy of each acknowledgment of receipt of this Order, obtained pursuant to the Section titled "Distribution of Order," and

4. any other changes required to be reported under Subsection A of this Section.

C. Defendant Reilly shall notify the Commission of the filing of a bankruptcy petition by Defendant Reilly within fifteen (15) days of filing.

D. For the purposes of this Order, Defendant Reilly shall, unless otherwise directed by the Commission's authorized representatives, send by overnight courier (not the U.S. Postal Service) all reports and notifications to the Commission that are required by this Order to:

Associate Director for Enforcement
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

~~600 Pennsylvania Avenue, N.W.~~ ~~Washington, D.C. 20580~~ ~~Associate Director for Enforcement~~ ~~Bureau of Consumer Protection~~ ~~Federal Trade Commission~~ ~~600 Pennsylvania Avenue, N.W.~~ ~~Washington, D.C. 20580~~

E. For purposes of the compliance reporting and monitoring required by this Order, the Commission is authorized to communicate directly with Defendant Reilly.

XI. RECORD KEEPING

IT IS FURTHER ORDERED that, for a period of seven (7) years from the date of entry of this Order, Defendant Reilly, for any business for which he is the majority owner or directly or indirectly controls, is restrained and enjoined from failing to create and retain the following records:

A. Accounting records that reflect cost of products sold, revenues generated, and the disbursement of the revenues;

B. Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by the business, including as an independent contractor; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;

C. Customer files containing the names, addresses, phone numbers, dollar amounts paid, quantity of items or services purchased, and description of items or services purchased, to the extent the information is obtained in the ordinary course of business;

D. Complaints and refund requests (whether received directly or indirectly, such as through a third party) and any responses to those complaints or requests;

E. Copies of all sales scripts, training materials, advertisements, or other marketing materials, including, but not limited to, scripts, talking points, rebuttal recommendations, advertisements, and marketing materials, and a representative copy of all letters or other written communications sent to consumers or third parties; and

F. All records and documents necessary to demonstrate full compliance with each provision of this Order, including, but not limited to, copies of acknowledgments of receipt of

related to the subject matter of this Order, he must deliver a copy of this Order to all principals and managers of the business before engaging in the conduct.

XIII. ACKNOWLEDGMENT OF RECEIPT OF ORDER

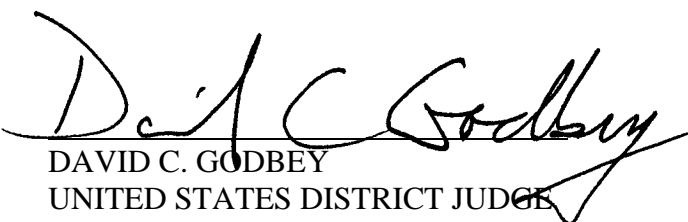
IT IS FURTHER ORDERED that Defendant Reilly, within five (5) business days of receipt of this Order as entered by the Court, must submit to the Commission a truthful sworn statement acknowledging receipt of this Order.

XIV. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

IT IS SO ORDERED.

SIGNED December 3, 2012.


DAVID C. GODBEY
UNITED STATES DISTRICT JUDGE

The parties, Plaintiff FTC by its counsel and Defendant Kelly Reilly acting *pro se*, consent to the terms and conditions of the Stipulated Permanent Injunction and Final Order as set forth above and consent to the entry of it.

SO STIPULATED AND AGREED:

FOR DEFENDANT KELLY REILLY:

/s/ Kelly Reilly
KELLY REILLY, Individually
4341 Horizon North Parkway, Apartment 131
Dallas, Texas 75287
Tel: (214) 930-9975
PRO SE

Date: 9-18-12

FOR PLAINTIFF FEDERAL TRADE COMMISSION:

WILLARD K. TOM
General Counsel

DEANYA T. KUECKELHAN
Regional Director

/s/ Susan E. Arthur
SUSAN E. ARTHUR
Texas Bar No. 01365300
SHEREEN EL DOMEIRI
Texas Bar No. 24036518

Date: 11-21-12

FEDERAL TRADE COMMISSION
Southwest Regional Office
1999 Bryan Street, Suite 2150
Dallas, Texas 75201
Tel: 214-979-9370 (Arthur)
Tel: 214-979-9395 (El Domeiri)
Fax: 214-953-3079
Email: sarthur@ftc.gov
Email: seldomeiri@ftc.gov

ATTORNEYS FOR PLAINTIFF
FEDERAL TRADE COMMISSION