

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

**PINNACLE PAYMENT SERVICES,
LLC, et al.,**

Defendants.

Case No. 1:13-cv-03455-TCB

**STIPULATED FINAL
ORDER FOR PERMANENT
INJUNCTION AND SETTLEMENT
OF CLAIMS AS TO DEFENDANT
DORIAN WILLS**

Plaintiff, Federal Trade Commission (“FTC”), commenced this civil action on October 21, 2013, pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), and Section 814(a) of the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692l(a). On motion by the FTC, on October 21, 2013, this Court entered an *ex parte* temporary restraining order (“TRO”) with asset freeze, appointment of receiver, and other equitable relief (Dkt. No. 7) against Defendants Pinnacle Payment Services, LLC, Velocity Payment Solutions, LLC, Heritage Capital Services, LLC, Performance Payment Processing, LLC, Credit Source Plus, LLC (an Ohio company), Credit Source Plus, LLC (a Georgia company), Reliable Resolution, LLC, Premium Express Processing, LLC (an Ohio company), Premium Express Processing, LLC (a Georgia company), Lisa J. Jeter, Hope V. Wilson, Nichole C. Anderson, Angela J.

Triplett, and DeMarra J. Massey. On November 4, 2013, after a hearing on an order to show cause, the Court entered a preliminary injunction (Dkt. No. 40) against Defendants. On December 16, 2013, the FTC filed its amended complaint (“First Amended Complaint”) (Dkt. No. 72) adding as defendants Tobias Boyland, Dorian Wills, Capitol Exchange, LLC, Global Acceptance, LLC, Freestar World, LLC, Heritage Management Services, LLC, Nationwide Payment Processors, LLC, National Processors Group, LLC, Pioneer Capital Services, LLC, Platium Express, LLC, Rapid Resolution, LLC, Solution Processing, LLC, and Windfall Management Systems, LLC. On February 5, 2014, after a hearing on an order to show cause, the Court entered a preliminary injunction (Dkt. No. 123) against the newly added Defendants.

Now, the FTC, the Receiver, and Defendant Dorian Wills,

monetary relief for the Stipulating Defendant's alleged deceptive acts or practices as alleged therein.

2. The FTC has the authority under Section 13(b) of the FTC Act and Section 814(a) of the FDCPA to seek the relief it has requested, and the Complaint states a claim upon which relief can be granted against the Stipulating Defendant.
3. This Court has jurisdiction over the subject matter of this case and has jurisdiction over the Stipulating Defendant. Venue in the Northern District of Georgia is proper.
4. The activities of the Stipulating Defendant, as alleged in the Complaint, are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
5. The Stipulating Defendant neither admits nor denies any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, the Stipulating Defendant admits the facts necessary to establish jurisdiction.
6. The Stipulating Defendant waives all rights to seek judicial review or otherwise challenge or contest the validity of this Order. The Stipulating Defendant also waives any claim that he may have held under the Equal

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action to the date of this Order. The FTC and the Stipulating Defendant each shall bear its own costs and attorneys' fees.

8. This action and the relief awarded herein are in addition to, and not in lieu of, other remedies as may be provided by law, including both civil and criminal remedies.
9. Entry of this Order is in the public interest.

DEFINITIONS

1. **“Consumer”** means any person.
2. **“Credit repair services”** means using any instrumentality of interstate commerce or the mails to sell, provide, or perform any service, in return for the payment of money or other valuable consideration, for the express or implied purpose of (i) improving any consumer's credit record, credit history, or credit rating, or (ii) providing advice or assistance to any consumer with regard to any activity or service described in clause (i).
3. **“Debt”** means any obligation or alleged obligation to pay money arising out of a transaction, whether or not such obligation has been reduced to judgment.
4. **“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.

5.

Tobias Boyland, Dorian Wills, .Lisa J. Jeter, Hope V. Wilson, Nichole C. Anderson, Angela J. Triplett, and DeMarra J. Massey.

7. **“Financial-related product or service”** means any product, service, plan, or program represented, expressly or by implication, to:
 - A. provide to any consumer, arrange for any consumer to receive, or assist any consumer in receiving, an extension of consumer credit;
 - B. provide to any consumer, arrange for any consumer to receive, or assist any consumer in receiving, credit repair services;
 - C. provide to any consumer, arrange for any consumer to receive, or assist any consumer in receiving, any secured or unsecured debt relief product or service;
8. **“Person”** means a natural person, organization, or other legal entity, including a corporation, partnership, proprietorship, association, cooperative, or any other group or combination acting as an entity.
9. **“Secured or unsecured debt relief product or service”** means, with respect to any mortgage, loan, debt, or obligation between a person and one or more secured or unsecured creditors or debt collectors, any product, service, plan, or program represented, expressly or by implication, to
 - (A) negotiate, settle, or in any way alter the terms of payment or other terms of the mortgage, loan, debt, or obligation, including but not limited to, a

reduction in the amount of interest, principal balance, monthly payments, or fees owed by a person to a secured or unsecured creditor or debt collector; (B) stop, prevent, or postpone any mortgage or deed of foreclosure sale for a person's dwelling, any other sale of collateral, any repossession of a person's dwelling or other collateral, or otherwise save a person's dwelling or other collateral from foreclosure or repossession; (C) obtain any forbearance or modification in the timing of payments from any secured or unsecured holder of any mortgage, loan, debt, or obligation; (D) negotiate, obtain, or arrange any extension of the period of time within which the person may (i) cure his or her default on the mortgage, loan, debt, or obligation, (ii) reinstate his or her mortgage, loan, debt, or obligation, (iii) redeem a dwelling or other collateral, or (iv) exercise any right to reinstate the mortgage, loan, debt, or obligation or redeem a dwelling or other collateral; (E) obtain any waiver of an acceleration clause or balloon payment contained in any promissory note or contract secured by any dwelling or other collateral; or (F) negotiate, obtain, or arrange (i) a short sale of a dwelling or other collateral, (ii) a deed-in-lieu of foreclosure, or (iii)

limited to, auditing or examining a person's application for the mortgage, loan, debt, or obligation.

10. **“Stipulating Defendant”** means Dorian Wills and by whatever names he might be known.

ORDER

BAN ON DEBT COLLECTION ACTIVITIES

- I. IT IS THEREFORE ORDERED** that the Stipulating Defendant, whether acting directly or through any other person, is permanently restrained and enjoined from:

- A. Engaging in debt collection activities;
- B. Assisting others engaged in debt collection activities; and
- C. Advertising, marketing, promoting, offering for sale, or selling, or assisting others engaged in the advertising, marketing, promoting, offering for sale, or selling, of any portfolio of consumer or commercial debt or any program that gathers, organizes, or stores consumer information relating to a debt or debt collection activities.

PROHIBITED MISREPRESENTATIONS RELATING TO FINANCIAL RELATED PRODUCTS OR SERVICES

- II. IT IS FURTHER ORDERED** that the Stipulating Defendant and his officers, agents, servants, employees, and attorneys, and those persons or entities in active concert or participation with any of them who receive

actual notice of this Order by personal service, facsimile transmission, email, or otherwise, whether acting directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, marketing, promotion, offering for sale or sale of any financial-related product or service, are hereby permanently restrained and enjoined from:

A. Misrepresenting or assisting others in misrepresenting, expressly or by implication, any material fact, including but not limited to:

1.

such secured or unsecured debt relief product or service; the amount of time before which a consumer will receive settlement of that consumer's debts; or the reduction or cessation of collection calls;

5. That a consumer will receive legal representation;
 6. That any particular outcome or result from a financial-related product or service is guaranteed, assured, highly likely or probable, or very likely or probable;
 7. The nature or terms of any refund, cancellation, exchange, or repurchase policy, including, but not limited to, the likelihood of a consumer obtaining a full or partial refund, or the circumstances in which a full or partial refund will be provided to the consumer; and
 8. Any other fact material to consumers concerning any financial-related product 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; and
- B. Advertising or assisting others in advertising credit terms other than those terms that actually are or will be arranged or offered by a creditor or lender.

CONSUMER INFORMATION

III. IT IS FURTHER ORDERED that the Stipulating Defendant and his officers, agents, servants, employees, and attorneys, and those persons or entities in active concert or participation with any of them who receive actual notice of this Order by personal service, facsimile transmission, email, or otherwise, whether acting directly or through any corporation, subsidiary, division, or other device, are permanently restrained and enjoined from directly or indirectly:

- A. Failing to provide sufficient consumer information to enable the FTC to administer efficiently consumer redress. If a representative of the FTC requests in writing any information related to redress, the Stipulating Defendant must provide it, in the form prescribed by the FTC, within 14 days.
- B. Disclosing, using, or benefitting from consumer 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 that any Defendant

obtained prior to entry of this Order in connection with the collection or attempted collection of any debt.

- C. Failing to destroy such consumer 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.
- D. **Provided, however,** that consumer 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.

MONETARY JUDGMENT

IV. IT IS FURTHER ORDERED that:

- A. Judgment in the amount of NINE MILLION, THREE HUNDRED EIGHTY FOUR THOUSAND, SIX HUNDRED TWENTY EIGHT DOLLARS (\$9,384,628) is entered in favor of the FTC against the Stipulating Defendant, with post-judgment interest at the legal rate, for equitable monetary relief, including but not limited to consumer redress, and for paying any attendant expenses of administering any redress fund. The monetary judgment set forth in this Section IV is enforceable against any asset, real or personal, whether located within the United States or outside the United States, owned jointly by, on behalf of, for the benefit of, or in trust by or for, the Stipulating

Defendant, whether held as tenants in common, joint tenants with or without the right of survivorship, tenants by the entirety, and/or community property.

- B. In partial satisfaction of the judgment against the Stipulating Defendant, 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 accounts or assets of, on behalf of, or for the benefit of, the Stipulating Defendant, whether real or personal, whether located within the United States or outside the United States, 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.
- C. In partial satisfaction of the judgment against the Stipulating Defendant, E*TRADE Securities, LLC shall, within ten (10) business days from receipt of a copy of this Order, liquidate all assets in account number xxxx3684 in the name of Hope Wilson and Dorian Wells and transfer the proceeds of such liquidation to the FTC or its designated agent,

personnel. To all others, delivery must occur before they assume their responsibilities.

- C. From each individual or entity to which the Stipulating Defendant delivered a copy of this Order, the Stipulating Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

COMPLIANCE REPORTING

VI. IT IS FURTHER ORDERED that the Stipulating Defendant make timely submissions to the FTC:

- A. One year after entry of this Order, the Stipulating Defendant must submit a compliance report, sworn under penalty of perjury.
1. The Stipulating Defendant must: (a) identify the primary physical, postal, and email and telephone number, as designated points of contact, which representatives of the FTC may use to communicate with the Stipulating Defendant; (b) identify all of that Stipulating Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the products and services offered, the means of advertising, marketing, and sales, and the involvement of any other

1. The Stipulating Defendant must report any change in: (a) any designated point of contact; or (b) the structure of any entity that the Stipulating Defendant has any ownership interest in or directly or indirectly controls 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.
 2. Additionally, the Stipulating Defendant must report any change in: (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for which the Stipulating Defendant performs services whether as an employee or otherwise and any entity in which the Stipulating Defendant has any ownership interest, and identify its name, physical address, and Internet address, if any.
- C. The Stipulating Defendant must submit to the FTC notice of the filing of any bankruptcy petition, insolvency proceeding, or any similar proceeding by or against the Stipulating Defendant within 14 days of its filing.

D. Any submission to the FTC 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 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 FTC representative in writing, all submissions to the FTC 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. The subject line must begin: *FTC v. Pinnacle Payment Service, et al.*, Matter Number X140002.

RECORDKEEPING

VII. IT IS FURTHER ORDERED that the Stipulating Defendant must create certain records for 20 years after entry of the Order, and retain each such record for 5 years. Specifically,

A.

documents, for inspection and copying. The FTC 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 FTC is authorized to communicate directly with the Stipulating Defendant. The Stipulating Defendant must permit representatives of the FTC to interview any employee or other person affiliated with the Stipulating Defendant who has agreed to such an interview. The person interviewed may have counsel present.
- C. The FTC may use all other lawful means, including posing, through its representatives, as consumers, suppliers, or other individuals or entities, to the Stipulating Defendant or any individual or entity affiliated with the Stipulating Defendant, without the necessity of identification or prior notice. Nothing in this Order limits the FTC's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

ENTRY OF JUDGMENT

IX. IT IS FURTHER

54(b), the Clerk immediately shall enter this Order as a final judgment as to the Stipulating Defendant.

RETENTION OF JURISDICTION

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

SO ORDERED, this 8th day of August 2014.



TIMOTHY C. BATTEN, SR.
United States District Judge