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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

SAMEER LAKHANY, *et al.*

Defendants.

Case No. SACV 12-00337-CJC(JPRx)

**STIPULATED FINAL
JUDGMENT, ORDER FOR
COMPENSATORY CONTEMPT
RELIEF, AND MODIFIED ORDER
FOR PERMANENT INJUNCTION
AND OTHER EQUITABLE
RELIEF AS TO DEFENDANT
BRIAN PACIOS**

Judge: Hon. Cormac J. Carney

1 Plaintiff Federal Trade Commission (“Commission” or “FTC”) filed its
2 Motion to Find Defendant Brian Pacios in Contempt (“Contempt Motion”) (DE
3 167, Apr. 28, 2015) based on Defendant’s violation of the Order entered by this
4 Court on February 28, 2013 (“2013 Order”). The Commission and Defendant
5 Brian Pacios stipulate to the entry of this Stipulated Final Judgment, Order for
6 Compensatory Contempt Relief, and Modified Order for Permanent Injunction and
7 Other Equitable Relief As to Defendant Brian Pacios (“Order”) to resolve all
8 matters in dispute in this contempt proceeding. This Order also resolves all
9 matters in dispute between the FTC and Defendant Brian Pacios (“Pacios”) in the
10 related case, *FTC v. Lake, et al.*, SACV 15-00585-CJC.

11 THEREFORE IT IS ORDERED as follows:

12 **FINDINGS**

13 “6jurndaw c4.3dictindaw9.7082 0 TD-.000f.0on over this matter. 0 Tw(20 Defendaw 41
14 2013 Order that bans Pacios from
15 e relief products or services and prohibits him from
16 al to a service. 0 Tw(30 Defendaw 412.2 Tm.)TJ16.077ndaw c4.89ciosPacios (“6As a result of Pacios’ vio
17 Forty-0w7 Thousand, Three Hundred with Chad Six Dollars (\$2,742,396.00). 0 Tw(40 Defendaw 412.2 Tm.)TJ
18 elson, C.C. also ndaw9.236m6 Center, and Retention Division), HAMP Services and Trial Pay(m)ed Pricy \$1

19 Denny Lake (individually and also d/b/a JD United, U.S.
20 Division, Advocacy Department, Advo“6c a

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1 15. Pacios, and the people he directed at HOPE Services, falsely told
2 consumers that, once they submitted their paperwork and first payment, their
3 lender could no longer foreclose on their home.

4 16. Hundreds of consumers were, in fact, misled by Pacios, and the
5 people he directed at HOPE Services, and as a result, sent certified funds made out
6 to “Trust Payment Center,” “Trial Payment Processing,” or “Retention Division.”

7 17. Pacios, and the people he directed at HOPE Services, did not send the
8 consumers’ modification applications to the consumers’ lenders, did not forward
9 consumer funds to any of the consumers’ lenders, and did not have any reason to
10 believe the consumers had been approved for a loan modification.

11 18. Pacios admits (a) the allegations in the Commission’s Contempt
12 Motion, Memorandum in Support of that Motion, and the FTC’s subsequent filings
13 with this Court in this case; (b) the allegations set forth in the Complaint filed in
14 the related case, *FTC v. Lake, et al.*, SACV 15-00585-CJC (D

1 paragraph serves to modify another paragraph unless expressly so stated.

2 24. All provisions of the 2013 Order remain in full force and effect with
3 respect to National Legal Network, Inc.

4 25. All provisions of the 2013 Order remain in full force and effect with
5 respect to Brian Pacios, except as otherwise stated in this Order.

6 **DEFINITIONS**

7 For the purposes of this Order, the following definitions apply:

8 A. “**Assisting others**” includes:

9 1. performing customer service functions, including receiving or
10 responding to consumer complaints;

11 2. formulating or providing, or arranging for the formulation or
12 provision of, any advertising or macludf, Inc. f2o-rnion of, any advertising or m

1 consumer, including those provided by financial institutions, consumer finance
2 companies, insurance companies, brokerages, investment managers, investment or
3 financial advisors, or public-sector entities providing similar products and services;
4 but excludes anything defined as either “credit-related financial product or service”
5 or “secured or unsecured debt relief product or service” as defined by this Order.

6 F. “**Person**” means a natural person, organization, or other legal entity,
7 including a corporation, partnership, proprietorship, association, cooperative, or
8 any other group or combination acting as an entity.

9 G. “**Secured or unsecured debt relief product or service**” means any o5(rtg.00, 1o-5.8(rT/288

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1 redeem a dwelling or other collateral, or (iv) exercise any right to reinstate the
2 mortgage, loan, debt, or obligation or redeem a dwelling or other collateral;

3 e. obtain any waiver of an acceleration clause or balloon
4 payment contained in any promissory note or contract secured by any dwelling or
5 other collateral; or

6 f. negotiate, obtain, or arrange (i) a short sale of a dwelling
7 or other collateral, (ii) a deed-in-lieu of foreclosure, or (iii) any other disposition of
8 a mortgage, loan, debt, or obligation other than a sale to a third party that is not the
9 secured or unsecured loan holder.

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

12 2. With respect to any loan, debt, or obligation between a person
13 and one or more unsecured creditors or debt collectors, any product, service, plan,
14 or program represented, expressly or by implication, to:

15 a. repay one or more unsecured loans, debts, or obligations;
16 or

17 b. combine unsecured loans, debts, or obligations into one
18 or more new loans, debts, or obligations.

19 H. "**Telemarketing**" means any plan, program or campaign which is
20 conducted to induce the purchase a plan, program, product or service by use of one
21 or more telephones, and which involves a telephone call, whether or not covered
22 by the Telemarketing Sales Rule, 16 C.F.R. Part 310.

23 **ORDER**

24 **I. BAN ON SECURED AND UNSECURED DEBT RELIEF PRODUCTS**
25 **AND SERVICES** (supersedes Section I of the 2013 Order)

26 IT IS ORDERED that Defendant is permanently restrained and enjoined
27 from advertising, marketing, promoting, offering for sale, or selling, or assisting
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1 others in the advertising, marketing, promoting, offering for sale, or selling, of any
2 secured or unsecured debt relief product or service.

3 **II. BAN ON CREDIT-RELATED FINANCIAL PRODUCTS AND**
4 **SERVICES** (supersedes Section II of the 2013 Order)

5 IT IS FURTHER ORDERED that Defendant is permanently restrained and
6 enjoined from advertising, marketing, promoting, offering for sale, or selling, or
7 assisting others in the advertising, marketing, promoting, offering for sale, or
8 selling, of any credit-related financial product or service.

9 **III. BAN ON TELEMARKETING**

10 IT IS FURTHER ORDERED that Defendant is permanently restrained and
11 enjoined from engaging or participating in telemarketing, directly or through an
12 intermediary, including, but not limited to, by consulting, brokering, planning,
13 investing, marketing, or by providing customer service or billing or payment
14 services.

15 **IV. PROHIBITED USE OF ALIASES**

16 IT IS FURTHER ORDERED that Defendant, whether acting directly or
17 indirectly, in connection with the advertising, marketing, promoting, offering for
18 sale, or selling of any plan, program, product, or service, is hereby permanently
19 restrained and enjoined from using an alias.

20 **V. PROHIBITION AGAINST MISREPRESENTATIONS RELATING**
21 **TO ANY PRODUCTS OR SERVICES** (supersedes Section III of the 2013
22 Order)

23 IT IS FURTHER ORDERED that Defendant, his officers, agents,
24 employees, and attorneys, and all others in active concert or participation with any
25 of them, who receive actual notice of this Order, whether acting directly or
26 indirectly, in connection with the advertising, marketing, promoting, offering for
27 sale, or selling of any product, service, plan, or program, are permanently
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1 restrained and enjoined from misrepresenting, or assisting others in
2 misrepresenting, expressly or by implication:

3 A. any material aspect of the nature or terms of any refund, cancellation,
4 exchange, or repurchase policy, including the likelihood of a consumer obtaining a
5 full or partial refund, or the circumstances in which a full or partial refund will be
6 granted to the consumer;

7 B. that any person is affiliated with, endorsed or approved by, or
8 otherwise connected to any other person, government entity, or any program,
9 including but not limited to any public, non-profit, or other non-commercial
10 program;

11 C. that the United States government or any federal homeowner relief or
12 financial stability program has researched, monitored, vetted, or approved any
13 product or service;

14 D. the nature, expertise, position, or job title of any person who provides
15 any product, service, plan, or program;

16 E. the person who will provide any product, service, plan, or program to
17 any consumer;

18 F. that any person providing a testimonial has purchased, received, or
19 used the product, service, plan, or program;

20 G. that the experience represented in a testimonial of the product, service,
21 plan, or program represents the person's actual experience resulting from the use of
22 the product, service, plan, or program under the circumstances depicted in the
23 advertisement;

24 H. that a consumer will receive legal representation;

25 I. any special connections or relationships with lenders or financial
26 institutions; or

1 J. any other fact material to consumers concerning any product, service,
2 plan, or program.

3 **VI. MONETARY JUDGMENT AND COMPENSATORY CONTEMPT**
4 **RELIEF** (supplements Section VI of the 2013 Order)

5 IT IS FURTHER ORDERED that:

6 A. Judgment in the amount of Two Million, Seven Hundred and Forty-
7 Two Thousand, Three Hundred Ninety-Six Dollars (\$2,742,396.00) is entered in
8 favor of the Commission against Defendant, as compensatory contempt relief.
9 Defendant is ordered to pay the FTC this amount immediately upon the entry of
10 this Order.

11 B. Defendant is also ordered to pay to the FTC the unpaid balance of the
12 Judgment set forth in the 2013 Order, which is One Million, One Hundred Eighty-
13 One Thousand, Seven Hundred Seventy-Four Dollars and Fifty-Four Cents
14 (\$1,181,774.54) plus all accrued interest, immediately upon the entry of this Order.

15 C. Any entity or person, including Defendant or any financial institution,
16 holding Defendant's frozen assets must transfer those assets to the Receiver in the
17 related case, *FTC v. Lake, et al.*, SACV 15-00585-CJC, in accordance with the
18 Receiver's instructions, within seven days of the entry of an Order in the related
19 case modifying the asset freeze to permit such transfer. Those assets include:

- 20 1. JP Morgan Chase account nos. XXXXXX4854, XXXXXX6050,
21 XXXXXX6529, XXXXXX6636, XXXXXX9414, XXXXXX0647,
22 XXXXXX9828; and
23 2. Comerica account nos. XXXXXX8344, XXXXXX8707.

24 After the Receiver's court-approved fees have been fully satisfied, the Receiver ve 003 Tc-.0005

1 necessary to execute additional documents to transfer, liquidate, or assign
2 Defendant's assets or any other assets surrendered under this Order, Defendant
3 shall execute such documents within three days of a request from a representative
4 of the Commission.

5 E. Defendant relinquishes dominion and all legal and equitable right,
6 title, and interest in all assets transferred pursuant to this Order and may not seek
7 the return of any assets.

8 F. The facts alleged in the FTC's Memorandum in Support of Its Motion
9 to Find Defendant Brian Pacios in Contempt (DE 178-1, Apr. 29, 2015) and
10 accompanying exhibits, and the FTC's subsequent filings related to the FTC's
11 Contempt Motion will be taken as true, without further proof, in any subsequent
12 civil litigation by or on behalf of the Commission, including in a proceeding to
13 enforce its rights to any payment or monetary judgment pursuant to this Order,
14 such as a nondischargeability complaint in any bankruptcy case. In addition, the
15 facts alleged in the FTC's Complaint in the related case, *FTC v. Lake, et al.*, SACV
16 15-00585-CJC (DE 1, Apr. 14, 2015) will be taken as true, without further proof,
17 in any subsequent civil litigation by or on behalf of the Commission, including in a
18 proceeding to enforce its rights to any payment or monetary judgment pursuant to
19 this Order, such as a nondischargeability complaint in any bankruptcy case.

20 G. The facts alleged in the FTC's Memorandum in support of Its Motion
21 to Find Defendant Brian Pacios in Contempt (DE 178-1, Apr. 29, 2015) and
22 accompanying exhibits and the FTC's subsequent filings related to the FTC's
23 Contempt Motion, establish all elements necessary to sustain an action by the
24 Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C.
25 § 523(a)(2)(A), and this Order will have collateral estoppel effect for such
26 purposes. In addition, the facts alleged in the FTC's Complaint in the related case,
27 *FTC v. Lake, et al.*, SACV 15-00585-CJC (DE 1, Apr. 14, 2015) establish all
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1 of them, who receive actual notice of this Order, whether acting directly or
2 indirectly, are permanently restrained and enjoined from directly or indirectly:

3 A. disclosing, using, or benefitting from customer information, including
4 the name, address, telephone number, email address, Social Security Number,
5 other identifying information, or any data that enables access to a customer's
6 account (including a credit card, bank account, or other financial account), that any
7 Defendant obtained prior to entry of this Order in connection with the marketing or
8 promotion of mortgage assistance relief products or services or debt relief products
9 or services; and

10 B. failing to destroy such customer information in all forms in their
11 possession, custody, or control within 10 days after entry of this Order.

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

15 **VIII. COOPERATION** (supersedes Section VIII of the 2013 Order)

16 IT IS FURTHER ORDERED that Defendant must fully cooperate with
17 representatives of the Commission in this case and in any investigation related to
18 or associated with the transactions or the occurrences that are the subject of the
19 Contempt Motion or the Complaint in the related case, *FTC v. Lake, et al.*, SACV
20 15-00585-CJC (DE 1, Apr. 14, 2015). Defendant must provide truthful and
21 complete information, evidence, and testimony. Defendant must appear for
22 interviews, discovery, hearings, trials, and any other proceedings that a
23 Commission representative may reasonably request upon 5 days written notice, or
24 other reasonable notice, at such places and times as a Commission representative
25 may designate, without the service of a subpoena.

1 **IX. ORDER ACKNOWLEDGMENTS** (supersedes Section IX of the 2013
2 Order)

3 IT IS FURTHER ORDERED that Defendant obtain acknowledgments of
4 receipt of this Order:

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

8 B. For 20 years after entry of this Order, for any business that Defendant,
9 individually or collectively with any other Defendant in this case or in the related
10 case, *FTC v. Lake, et al.*

1 of whether Defendant is considered an “employee,” an “independent contractor,”
2 or otherwise.

3 D. From each individual or entity to which Defendant delivered a copy of
4 this Order pursuant to this Section, Defendant must obtain, within 30 days, a
5 signed and dated acknowledgmen

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1 6. Identify all telephone numbers and all physical, postal, email
2 and Internet addresses, including all residences;

3 7. Identify all business activities, including any business for which
4 such Defendant performs services whether as an employee or otherwise and any
5 entity in which Defendant has any ownership interest; and

6 8. Describe in detail Defendant's involvement in each such
7 business, including title, role, responsibilities, participation, authority, control, and
8 any ownership.

9 B. For 20 years after entry of this Order, Defendant must submit a
10 compliance notice, sworn under penalty of perjury, within 14 days of any change
11 in the following:

12 1. Any designated point of contact;

13 2. The structure of any entity that Defendant has any ownership
14 interest in or controls directly or indirectly that may affect compliance obligations
15 arising under this Order, including: creation, merger, sale, or dissolution of the
16 entity or any subsidiary, parent, or affiliate that engages in any acts or practices
17 subject to this Order;

18 3. Name or residence address; or

19 4. Title or role in any business activity, including any business for
20 which Defendant performs services whether as an employee or otherwise and any
21 entity in which such Defendant has any ownership interest, and identify the name,
22 physical address, and any Internet address of the business or entity.

23 C. Defendant must submit to the Commission notice of the filing of any
24 bankruptcy petition, insolvency proceeding, or similar proceeding by or against
25 Defendant within 14 days of its filing.

26 D. Any submission to the Commission required by this Order to be
27 sworn under penalty of perjury must be true and accurate and comply with 28
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1 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under
2 the laws of the United States of America that the foregoing is true and correct.
3 Executed on: _____” and supplying the date, signatory’s full name, title (if
4 applicable), and signature.

5 E. Unless otherwise directed by a Commission representative in writing,
6 all submissions to the Commission pursuant to this Order must be emailed to
7 DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to:
8 Associate Director for Enforcement, Bureau of Consumer Protection, Federal
9 Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The
10 subject line must begin: *FTC v. Sameer Lakhany* – Brian Pacios, X120014.

11 **XI. RECORDKEEPING** (supersedes Section XI of the 2013 Order)

12 IT IS FURTHER ORDERED that Defendant must create certain records for
13 20 years after entry of the Order, and retain each such record for 5 years.
14 Specifically, Defendant and any business that Defendant, individually or
15 collectively with any other Defendant in this case or in the related case, *FTC v.*
16 *Lake, et al.*, SACV 15-00585-CJC, is a majority owner or controls directly or
17 indirectly, must create and retain the following records:
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1 pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C.
2 §1681b(a)(1).

3 **XIII. RETENTION OF JURISDICTION**

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

7
8 **IT IS SO ORDERED**, this 3rd day of November, 2015.

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11 Dated: November 3, 2015

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13 _____
14 CORMAC J. CARNEY
15 UNITED STATES DISTRICT JUDGE
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