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

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

DAMIAN KUTZNER, et al.

Defendants.

SACV16-00999-BRO (AFMx)

**STIPULATED ORDER FOR
PERMANENT INJUNCTION AND
OTHER EQUITABLE RELIEF AS
TO DEFENDANT VITO
TORCHIA JR.**

Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), filed its Complaint for Permanent Injunction and Other Equitable Relief (“Complaint”), pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), and the 2009 Omnibus Appropriations Act, Public Law 111-8, Section 626, 123 Stat. 524, 678 (Mar. 11, 2009) (“Omnibus Act”), as clarified by the Credit Card Accountability Responsibility and Disclosure Act of 2009, Public Law 111-24, Section 511, 123 Stat. 1734, 1763-64 (Mar. 22, 2009) (“Credit Card Act”), and amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, Section 1097, 124 Stat. 1376, 2102-03 (July 21, 2010) (“Dodd-Frank Act”), 12 U.S.C. § 5538. The Commission and Vito Torchia Jr. stipulate to the entry of this Stipulated Order for Permanent Injunction and Other Equitable Relief (“Order”) to resolve all matters in dispute in this action between them.

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THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants participated in deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, and otherwise violated the Mortgage Assistance Relief Services Rule (“MARS Rule”), 16 C.F.R. Part 322, recodified as Mortgage Assistance Relief Services, 12 C.F.R. Part 1015 (“Regulation O”).
3. Vito Torchia Jr. neither admits

- 1 3. formulating or providing, or arranging for the formulation or
2 provision of, any marketing support material or service,
3 including web or Internet Protocol addresses or domain name
4 registration for any Internet websites, affiliate marketing
5 services, or media placement services;
- 6 4. providing names of, or assisting in the generation of, potential
7 customers;
- 8 5. performing marketing, billing, or payment services of any kind;
9 or
- 10 6. acting or serving as an owner, officer, director, manager, or
11 principal of any entity.

12 B. **“Corporate Defendants”** means Brookstone Law P.C. (California),
13 Brookstone Law P.C. (Nevada), Advantis Law P.C., and Advantis Law Group
14 P.C., and their successors and assigns.

15 C. **“Defendants”** means all of the Individual Defendants and the
16 Corporate Defendants, individually, collectively, or in any combination.

17 D. **“Order related product or service”** means any product, service,
18 plan, or program represented, expressly or by implication, to:

- 19 1. provide any consumer, arrange for any consumer to receive, or
20 assist any consumer in receiving, a loan or other extension of
21 credit;
- 22 2. provide any consumer, arrange for any consumer to receive, or
23 assist any consumer in receiving, credit, debit, or stored value
24 cards;
- 25 3. improve, repair, or arrange to improve or repair, any
26 consumer’s credit record, credit history, or credit rating; or
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1 4. provide advice or assistance to improve any consumer’s credit
2 record, credit history, or credit rating.

3 E. **“Individual Defendants”** means Damian Kutzner, Jeremy Foti, Vito
4 Torchia Jr., Jonathan Tarkowski, R. Geoffrey Broderick, and Charles T. Marshall.

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

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

9 1. With respect to any mortgage, loan, debt, or obligation between
10 a person and one or more secured or unsecured creditors or debt
11 collectors, any product, service, plan, or program represented,
12 expressly or by implication, to:

13 a. stop, prevent, or postpone any mortgage or deed of
14 foreclosure sale for a person’s dwelling, any other sale of
15 collateral, any repossession of a person’s dwelling or
16 other collateral, or otherwise save a person’s dwelling or
17 other collateral from foreclosure or repossession;

18 b. negotiate, obtain, or arrange a modification, or
19 renegotiate, settle, or in any way alter any terms of the
20 mortgage, loan, debt, or obligation, including a reduction
21 in the amount of interest, principal balance, monthly
22 payments, or fees owed by a person to a secured or
23 unsecured creditor or debt collector;

24 c. obtain any forbearance or modification in the timing of
25 payments from any secured or unsecured holder or
26 servicer of any mortgage, loan, debt, or obligation;

- 1 d. negotiate, obtain, or arrange any extension of the period
- 2 of time within which a person may (i) cure his or her
- 3 default on the mortgage, loan, debt, or obligation, (ii)
- 4 reinstate his or her mortgage, loan, debt, or obligation,
- 5 (iii) redeem a dwelling or other collateral, or (iv) exercise
- 6 any right to reinstate the mortgage, loan, debt, or
- 7 obligation or redeem a dwelling or other collateral;
- 8 e. obtain any waiver of an acceleration clause or balloon
- 9 payment contained in any promissory note or contract
- 10 secured by any dwelling or other collateral; or
- 11 f. negotiate, obtain, or arrange (i) a short sale of a dwelling
- 12 or other collateral, (ii) a deed-in-lieu of foreclosure, or
- 13 (iii) any other disposition of a mortgage, loan, debt, or
- 14 obligation other than a sale to a third party. @ negotiate, od bt
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ORDER

I. BAN ON SECURED AND UNSECURED DEBT RELIEF PRODUCTS AND SERVICES

IT IS ORDERED that Vito Torchia Jr. is permanently restrained and enjoined from advertising, marketing, promoting, offering for sale, or selling, or assisting others in the advertis

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1 5. the amount of cash to be disbursed to the borrower out of the
2 proceeds, or the amount of cash to be disbursed on behalf of the
3 borrower to any third parties;

4 6. whether any specified minimum payment amount covers both
5 interest and principal, and whether the credit has or can result in
6 negative amortization; or

7 7. that the credit does not have a prepayment penalty or whether
8 subsequent refinancing may trigger a prepayment penalty
9 and/or other fees;

10 B. the ability to improve or otherwise affect a consumer's credit record,
11 credit history, credit rating, or ability to obtain credit, including that a consumer's
12 credit record, credit history, credit rating, or ability to obtain credit can be
13 improved by permanently removing current, accurate negative information from
14 the consumer's credit record or history;

15 C. that a consumer will receive legal representation; or

16 D. any other fact material to consumers concerning any good or service,
17 such as: the total costs; any material restrictions, limitations, or conditions; or any
18 material aspect of its performance, efficacy, nature, or central characteristics.

19 **III. PROHIBITION AGAINST MISREPRESENTATIONS RELATING**
20 **TO ANY PRODUCTS OR SERVICES**

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

28 A. the likelihood of obtaining any relief for consumers;

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B.

1 B. The facts alleged in the Complaint will be taken as true, without
2 further proof, in any subsequent civil litigation by or on behalf of the Commission,
3 including in a proceeding to enforce its rights to any payment or monetary
4 judgment pursuant to this Order, such as a nondischargeability complaint in any
5 bankruptcy case.

6 C. The facts alleged in the Complaint establish all elements necessary to
7 sustain an action by the Commission pursuant to Section 523(a)(2)(A) of the
8 Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral
9 estoppel effect for such purposes.

10 D. Vito Torchia Jr. acknowledges that his Taxpayer Identification
11 Number (Social Security Numbers or Employer Identification Numbers), which he
12 previously submitted to the Commission, may be used for collecting and reporting
13 on any delinquent amount arising out of this Order, in accordance with 31 U.S.C.
14 §7701.

15 E. All money paid to the Commission pursuant to this Order may be
16 deposited into a fund administered by the Commission or its designee to be used
17 for equitable relief, including consumer redress and any attendant expenses for the
18 administration of any redress fund. If a representative of the Commission decides
19 that direct redress to consumers is wholly or partially impracticable or money
20 remains after redress is completed, the Commission may apply any remaining
21 money for such other equitable relief (including consumer information remedies)
22 as it determines to be reasonably related to Defendants' practices alleged in the
23 Complaint. Any money not used for such equitable relief is to be deposited to the
24 U.S. Treasury as disgorgement. Defendants have no right to challenge any actions
25 the Commission or its representatives may take pursuant to this Subsection.
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1 F. The asset freeze in force against Vito Torchia Jr. is modified to permit
2 the payment identified in the Monetary Judgment and Partial Suspension Section.
3 Upon completion of this payment, the asset freeze is dissolved.

4 **VI. CUSTOMER INFORMATION**

5 **IT IS FURTHER ORDERED** that Vito Torchia Jr., his officers, agents,
6 employees, and attorneys, and all other persons in active concert or participation
7 with any of them, who receive actual notice of this Order, are permanently
8 restrained and enjoined from directly or indirectly:

9 A. failing to provide sufficient customer information to enable the
10 Commission to efficiently administer consumer redress. If a representative of the
11 Commission requests in writing any information related to redress, Vito Torchia Jr.
12 must provide it, in the form prescribed by the Commission, within 14 days.

13 B. disclosing, using, or benefitting from customer information, including
14 the name, address, telephone number, email address, social security number, other
15 identifying information, or any data that enables access to a customer's account
16 (including a credit card, bank account, or other financial account), that any
17 Defendant obtained prior to entry of this Order in connection with any product or
18 service related to consumers' ^{Defamation, in} mortgages; and

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1 Complaint. Vito Torchia Jr. must provide truthful and complete information,
2 evidence, and testimony. Vito Torch @ PpPÀQ CEO 0
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A. One year after entry of this Order, Vito Torchia Jr. must submit a

1 B. For 15 years after entry of this Order, Vito Torchia Jr. must submit a
2 compliance notice, sworn under penalty of perjury, within 14 days of any change
3 in the following:

4 1. Vito Torchia Jr. must report any change in: (a) any designated
5 point of contact; or (b) the structure of any entity that
6 Defendant has any ownership interest in or controls directly or
7 indirectly that may affect compliance obligations arising under
8 this Order, including: creation, merger, sale, or dissolution of
9 the entity or any subsidiary, parent, or affiliate that engages in
10 any acts or practices subject to this Order.

11 2. Additionally, Vito Torchia Jr. must report any change in: (a)
12 name, including aliases or fictitious name, or residence address;
13 or (b) title or role in any business activity, including any
14 business for which such Defendant performs services whether
15 as an employee or otherwise and any entity in which such
16 Defendant has any ownership interest, and identify the name,
17 physical address, and any Internet address of the business or
18 entity.

19 C. Vito Torchia Jr. must submit to the Commission notice of the filing of
20 any bankruptcy petition, insolvency proceeding, or similar proceeding by or
21 against such Defendant within 14 days of its filing.

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

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

10 B. For matters concerning this Order, the Commission is authorized to
11 communicate directly with Vito Torchia Jr. Vito Torchia Jr. must permit
12 representatives of the Commission to interview any employee or other person
13 affiliated with him who has agreed to such an interview. The person interviewed
14 may have counsel present.

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

21 D. Upon written request from a representative of the Commission, any
22 consumer reporting agency must furnish consumer reports concerning Vito Torchia
23 Jr., pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C.
24 §1681b(a)(1).

XII. RETENTION OF JURISDICTION

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 15th day of February, 2017

HONORABLE BEVERLY REID O'CONNELL
UNITED STATES DISTRICT JUDGE

SO STIPULATED AND AGREED:

FOR THE FEDERAL TRADE COMMISSION:

_____ Date: _____
Benjamin J. Theisman, Attorney
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, D.C. 20580
(202) 326-2223 (phone)
(202) 326-3197 (fax)
btheisman@ftc.gov

FOR DEFENDANTS:

_____ Date: _____
Vito Torchia Jr.