

PREPARED BY THE COURT

MATTHEW J. PLATKIN, Acting Attorney General of the State of New Jersey, SEAN P. NEAFSEY, Acting Director of the New Jersey Division of Consumer Affairs, and MARLENE CARIDE, Commissioner of the New Jersey Department of Banking and Insurance,

Plaintiffs,

v.

FINANCIAL SERVICES FOR AMERICA, an NJ Nonprofit Corporation, FINANCIAL PROCESSING SERVICES, LLC, TRI-STATE FINANCIAL RELIEF, LLC, MORTGAGE HELP AND LOAN AUDITS OF AMERICA, LLC, NEAL J. VANDERPOEL II a/k/a Jimmy Vanderpoel a/k/a Neal Van a/k/a Neal Vanderpoel, Sr., EILEEN P. VANDERPOEL, a/k/a Eileen Van, NEAL J. VANDERPOEL IV a/k/a Neal Van a/k/a Neal Vanderpoel, Jr., RYAN VANDERPOEL a/k/a Ryan Van, JANE and JOHN DOES 1-10, individually and as owners, officers, directors, founders, members, managers, agents, employees, servants, representatives, and/or independent contractors of FINANCIAL SERVICES FOR AMERICA, a NJ Nonprofit Corporation, FINANCIAL PROCESSING SERVICES, LLC, TRI-STATE FINANCIAL RELIEF, LLC, and MORTGAGE HELP AND LOAN AUDITS OF AMERICA, LLC, and XYZ CORPORATIONS 1-10,

Defendants.

**SUPERIOR COURT OF NEW JERSEY
CHANCERY DIVISION
GENERAL EQUITY
BURLINGTON COUNTY**

DOCKET NO. C-92-20

CIVIL ACTION

ORDER AND JUDGMENT

WHEREAS this matter was opened to the Court on December 30, 2020 by the filing of a Verified Complaint and Order to Show Cause on behalf of the New Jersey Attorney General, Director and Commissioner (collectively, “Plaintiffs”)¹ pursuant to the provisions of the Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. (“CFA”), the Non-Profit Corporation Act, N.J.S.A. 15A:1-1 et seq. and the Debt Adjustment Act, N.J.S.A. 17:16G-1 et seq., against Financial Services For America, a nonprofit corporation, Financial Processing Services, LLC, Tri-State Financial Relief, LLC, Mortgage Help and Loan Audits of America, LLC (collectively referred to as the “Corporate Defendants”) and Neal J. Vanderpoel II, Eileen P. Vanderpoel, Neal J. Vanderpoel IV, and Ryan Vanderpoel (collectively referred to as the “Individual Defendants); and the Corporate Defendants and Individual Defendants, together, referred to collectively as the “Defendants”); and

WHEREAS Plaintiffs, pursuant to R. 4:46-2, have moved for summary judgment against Defendants that includes a finding that Defendants’ acts constitute multiple violations of the CFA, the Debt Adjustment Act, and the Non-Profit Corporation Act and the regulations relating thereto, the issuance of permanent injunctive relief against future violations of the CFA, the Debt Adjustment Act, and the Non-Profit Corporation Act, the dissolution of the corporate entities, an award of consumer restitution, an award of maximum civil penalties and reimbursement of attorneys’ fees and investigative costs; and

WHEREAS the court having considered the pleadings filed herein and the oral arguments of counsel; and for good cause shown;

IT IS on this 28th day of June 2022 **ORDERED** that:

1. Plaintiffs’ motion for summary judgment is **GRANTED IN PART** and **DENIED IN PART**, as set forth below.
2. Plaintiffs’ request that the court find the acts and omissions of Defendants constitute multiple instances of unlawful practices in violation of the Consumer Fraud Act, N.J.S.A.

¹ This action was commenced on behalf of Gurbir Grewal, former Attorney General, and Paul Rodriguez, the former Director. Pursuant to R. 4:34-4, the caption has been changed to reflect the current Acting Attorney General and Acting Director.

56:8-1 et seq., the Debt Adjustment Act, N.J.S.A. 17:16G-1 et seq., and the Non-Profit Corporation Act, N.J.S.A. 15A-1-1 et seq. is **GRANTED**.

3. Plaintiffs' request that the court find the acts and omissions of Defendants constitute multiple instances of unlawful practices in violation of the Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq. is **WITHDRAWN**.
4. Plaintiffs' request that the court permanently enjoin and restrain Defendants from offering for sale and/or advertising any loan modification services, debt adjustment services, mortgage compliance analysis report product/service, and/or forensic audit service/product, whether through Internet websites, social media accounts, direct mailings, publications, unsolicited telephone calls and/or door to door solicitations as authorized by the Consumer Fraud Act, N.J.S.A. 56:8-8, is **GRANTED**.
5. Plaintiffs' request that the court permanently enjoin and restrain Defendants and their owners, officers, directors, shareholders, founders, managers, agents, servants, employees, representatives, independent contractors and all other persons or entities directly under their control, from engaging in, continuing to engage in, or doing any acts or practices in violation of the Consumer Fraud Act, the Advertising Regulations, and the Debt Adjustment Act, is **GRANTED**.
6. Plaintiffs' request that the court vacate and annul Defendants' corporate charters and the certificates of formation for any limited liability company created by New Jersey laws, nunc pro tunc, to the day of formation as authorized by the Consumer Fraud Act, N.J.S.A. 56:8-8, and the Nonprofit Corporation Act, N.J.S.A. 15A:12-11, is **GRANTED**.
7. Plaintiffs' request that the court revoke any certificate of authority to do business in New Jersey of a foreign corporation or limited liability company and revoke any other licenses, permits or certificates issued pursuant to law to such person whenever such management, ownership, activity, charter, authority, license, permit or certificate have been or may be used to further such unlawful practices as authorized by the Consumer Fraud Act, N.J.S.A. 56:8-8, is **GRANTED**.
8. Plaintiffs' request that the court appoint a receiver as authorized by the Consumer Fraud Act, N.J.S.A. 56:8-8 and 56:8-9, and the Nonprofit Corporation Act, N.J.S.A. 15A:14-2, at Defendants' expense, to assume control over the assets of the Defendants, to render a full accounting, and to sell and/or convey such assets under the direction of the court so as to make restitution to any person who has suffered damages, whether named in the

verified complaint or not, is **GRANTED**. Plaintiffs are **DIRECTED** to submit to the court within thirty (30) days of receipt of this order a list of three (3) individuals who are ready and willing to serve in said capacity.

9. Plaintiffs' request that the court order Defendants to disgorge all funds and property (real and personal) acquired and/or retained as a result of any acts or practices in violation of the Consumer Fraud Act and the Debt Adjustment Act is **GRANTED**.
10. Plaintiffs' request that the court direct Defendants, jointly and severally, to restore to any affected person, whether or not named in the verified complaint, any money or real or personal property acquired by means of any practice alleged herein to be unlawful and found to be unlawful, as authorized by the Consumer Fraud Act and the Debt Adjustment Act, is **GRANTED**. The receiver is authorized, under direction of the court, to make restitution to any person who has suffered damages, as reflected in paragraph 8, above.
11. Plaintiffs' request that the court direct Defendants, jointly and severally, to pay statutory civil penalties for violation of the Consumer Fraud Act, in accordance with N.J.S.A. 56:8-13, and the Debt Adjustment Act, in accordance with N.J.S.A. 56:8-14.3(a), is **GRANTED**.
 - a. For violations under the Consumer Fraud Act, the civil penalty is \$942,000.
 - b. For violations under the Debt Adjustment Act, the civil penalty is \$942,000.
12. Plaintiffs' request that the court assess enhanced penalties for each violation which caused a victim pecuniary injury when Defendants knew or should have known that the victim was a senior citizen over the age of sixty or was a person with a disability as authorized by the Consumer Fraud Act, N.J.S.A. 56:8-14.3(a), is **DENIED**.
13. Plaintiffs' request that the court direct Defendants, jointly and severally, to pay costs, attorney fees, and filing fees, as authorized by the Consumer Fraud Act, N.J.S.A. 56:8-11 and -19 is **GRANTED**.
 - a. Plaintiffs shall provide a breakdown of the work conducted by Deputy Attorney General Donna Dorgan, in accordance with R. 4:42-9 and Rules of Professional Conduct (RPC) 1.5(a), within thirty (30) days of receipt of this order.
 - b. Plaintiffs shall provide a breakdown of the work conducted by the Division of Consumer Affairs for its investigatory work within thirty (30) days of receipt of this order.

14. Plaintiffs' request that the court order the discharge to the Commissioner the full amount of Financial Services of America's bond under the Debt Adjustment Act, N.J.S.A. 17:16G-5, and the regulations promulgated thereunder, N.J.A.C. 3:25-2.4, is **GRANTED**.
15. Plaintiffs' request that funds currently held by T.D. Bank, N.A., in the amount of \$50,033.34 and belonging to Financial Services of America, LLC, be turned over to Plaintiffs to be used as partial payment for any monetary relief is **GRANTED**. The funds received shall be used for equitable relief including but not limited to consumer redress and any expenses for the administration of any redress fund. If Plaintiffs determine redress to consumers is wholly or practically impracticable, any funds not so used shall be retained by the Division in lieu of redress but only upon approval and order of the court.

IT IS FURTHER ORDERED THAT a copy of this order shall be provided to Defendants within seven (7) days of the date of this **ORDER**.

/S/ Paula T. Dow

Hon. Paula T. Dow, P.J.Ch.

This motion was verbally opposed.