



Which Order to Show Cause was entered also bringing upon a motion for a temporary restraining order staying and enjoining the TRO Defendants, their affiliates, agents, employees, servants, and assigns, pursuant to C.P.L.R. § 6301 et seq., from engaging in any of the following practices:

- (a) Marketing, advertising, offering, selling or engaging in Mortgage Assistance Relief Services, as that term is defined herein, or aiding and abetting the marketing, advertising, offering, selling, or carrying out of these services;
- (b) Owning, managing, operating, creating, or assisting in the creation of any entity that markets, advertises, offers, sells, or carries out Mortgage Assistance Relief Services;
- (c) Being employed by, or serving as a consultant to, any person or entity that sells or carries out Mortgage Assistance Relief Services; and
- (d) Engaging in any deceptive acts and practices or false advertising in violation of New York General Business Law §§ 349 or 350, including:
  - i. Charging consumers an upfront fee for Mortgage Assistance Relief Services;
  - ii. Misrepresenting to consumers the nature and mechanics of Mortgage Assistance Relief Services;
  - iii. Falsely promising to engage in negotiations with consumers' mortgage lenders or servicers;
  - iv. Misrepresenting the progress of loan modification applications;
  - v. Falsely representing that refunds will be issued if the offered Mortgage Assistance Relief Services do not succeed;
  - vi. Encouraging consumers to stop either paying their monthly mortgage payments and/or communicating with their lenders or servicers; and
  - vii. Forming a business or organizational identity or operating as a "doing business as" organization as a method of evading consumers; and

Which Order to Show Cause was entered also bringing upon a motion for expedited discovery allowing Plaintiffs to commence discovery related to certain issues and to depose

certain Defendants and non-parties on five days notice, to prevent destruction of evidence, looting of assets, or frustration of judgment;

Which Order to Show Cause was based upon the affidavits of certain Plaintiffs and the exhibits annexed thereto; the affidavit of Hyon Min Rho (sworn to on June 24, 2011) and the exhibits annexed thereto; the affidavit of Daniel F. Kolb (sworn to on June 26, 2011) and the exhibits annexed thereto; the affidavit as to the need for emergency relief (sworn to on June 26, 2011); the affidavit of Andrew J. Bruck (sworn to on June 27, 2011) and the accompanying

Memorandum of Law; and *upon the record of August 15, 2011 where in defendant Scott Schreiber did not appear and defendant*  
Upon the Court having found therein that Plaintiffs have established the requisites for a *Guy Samuel appeared pro se*; and preliminary injunction pursuant to Sections 349 and 350 of the General Business Law and Section 6301 of the C.P.L.R. namely, (1) a likelihood of success on the merits; (2) injury as a result of Defendants' deceptive acts and false advertising and future irreparable harm; and (3) a balance of equities tipping in its favor;

Now, upon the motion of attorneys for Plaintiffs,



IT IS HEREBY ORDERED that this Order shall extend to the TRO Defendants and any directors, officers, shareholders, employees, successors, assignees, and agents acting in concert or in participation with the TRO Defendants; any corporation, company, business entity or other entity or device through which the TRO Defendants may now or hereafter act or conduct business; and any entity of which any of the TRO Defendants is a majority owner or which a TRO Defendant operates, manages, or controls; it is further

ORDERED that the TRO Defendants, their affiliates, agents, employees, servants, and assigns are enjoined from engaging in any of the following practices:

- (a) Marketing, advertising, offering, selling or engaging in Mortgage Assistance Relief Services, as that term is defined herein, or aiding and abetting the marketing, advertising, offering, selling, or carrying out of these services;
- (b) Owning, managing, operating, creating, or assisting in the creation of any entity that markets, advertises, offers, sells, or carries out Mortgage Assistance Relief Services; and
- (c) Being employed by, or serving as a consultant to, any person or entity that sells or carries out Mortgage Assistance Relief Services;
- (d) Engaging in any deceptive acts and practices or false advertising in violation of New York General Business Law §§ 349 or 350, including:
  - i. Charging consumers an upfront fee for Mortgage Assistance Relief Services;
  - ii. Misrepresenting to consumers the nature and mechanics of Mortgage Assistance Relief Services;
  - iii. Falsely promising to engage in negotiations with consumers' mortgage lenders or servicers;
  - iv. Misrepresenting the progress of loan modification applications;
  - v. Falsely representing that refunds will be issued if the offered Mortgage Assistance Relief Services do not succeed;
  - vi. Encouraging consumers to stop either paying their monthly mortgage payments and/or communicating with their lenders or servicers; and
  - vii. Forming a business or organizational identity or operating as a "doing business as" organization as a method of evading consumers; it is further

ORDERED that for the purposes of this Order, the term "Mortgage Assistance Relief Services" shall mean any service, plan, or program, offered or provided to the consumer in exchange for consideration that is represented, expressly or by implication, to assist or attempt to assist the consumer with any of the following:

- (a) 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;

- (b) Negotiating, obtaining, or arranging a modification of any term of a dwelling loan, including a reduction in the amount of interest, principal balance, monthly payments, or fees;
- (c) Obtaining any forbearance or modification in the timing of payments from any dwelling loan holder or servicer on any dwelling loan;
- (d) Negotiating, obtaining, or arranging any extension of the period of time within which the consumer may:
  - i. Cure his or her default on a dwelling loan,
  - ii. Reinstate his or her dwelling loan,
  - iii. Redeem a dwelling, or
  - iv. Exercise any right to reinstate a dwelling loan or redeem a dwelling;
- (e) Obtaining any waiver of an acceleration clause or balloon payment contained in any promissory note or contract secured by any dwelling; or
- (f) Negotiating, obtaining or arranging:
  - i. A short sale of a dwelling,
  - ii. A deed-in-lieu of foreclosure, or
  - iii. Any other disposition of a dwelling other than a sale to a third party who is not the dwelling loan holder; it is further

ORDERED that Defendants shall, upon request by Plaintiffs, provide all documentation and information necessary for Plaintiffs to verify compliance with this Order; it is further

ORDERED that any notices, statements or other written documents required by this Order shall be provided by first-class mail to the intended recipient at the addresses set forth below, unless a different address is specified in writing by the party changing such address:

For Plaintiffs:

Daniel F. Kolb, Esq.  
Davis Polk & Wardwell LLP  
New York, New York 10017

For Defendants:

(see rider)

Such notices, statements, and documents shall be deemed to have been given upon mailing; it is further

ORDERED that Defendants shall provide written notice to Plaintiffs of any change of address within seven (7) days of such change; it is further

ORDERED that Plaintiffs be permitted to convert the bond secured pursuant to this Court's June 28, 2011 Order to Show Cause into a bond on terms that would satisfy the foregoing; it is further

ORDERED that service of a copy of this Order together with all the papers appended hereto and the bond to be filed herein, be made pursuant to C.P.L.R. § 2103(b)(1) or (3) upon Defendants or their attorneys, and pursuant to C.P.L.R. § 2103(c) upon Defendants, by 5 p.m. on the \_\_\_ day of \_\_\_, 2011 be sufficient; and it is further

~~ORDERED that Defendants serve any papers in opposition on Plaintiffs pursuant to C.P.L.R. §§ 2103(b)(1) or (3) before the close of business on \_\_\_ day of \_\_\_, 2011.~~



ENTER:



HON. JOHN M. GALASSO, J.S.C.

## RIDER

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