

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

CONSUMER FINANCIAL PROTECTION BUREAU,

Plaintiff,

v.

THE MORTGAGE LAW GROUP, LLP (d/b/a
THE LAW FIRM OF MACEY, ALEMAN & SEARNS);
CONSUMER FIRST LEGAL GROUP, LLC;
THOMAS G. MACEY;
JEFFREY J. ALEMAN;
JASON E. SEARNS; and
HAROLD E. STAFFORD,

Defendants.

Case No. 3:14-cv-00513

**AMENDED STIPULATED
FINAL JUDGMENT AND
ORDER AS TO THE
MORTGAGE LAW GROUP,
LLP**

INTRODUCTION

The Consumer Financial Protection Bureau (“Bureau”) commenced this civil action in this Court (the “Court”) on July 22, 2014, through its complaint (“Complaint”) to obtain injunctive and monetary relief, including civil penalties, for alleged violations of Regulation O, 12 C.F.R. pt. 1015 (2011), and for alleged violations of sections 1031 and 1036 of the Consumer Financial Protection Act of 2010 (“CFPA”), 12 U.S.C. §§ 5531, 5536, by The Mortgage Law Group, LLP, d/b/a The Law Firm of Macey, Aleman & Searns (“TMLG”), Consumer First Legal Group, LLC, Thomas G. Macey, Jeffrey J. Aleman, Jason E. Searns, and Harold E. Stafford.

The Bureau and Ronald R. Peterson, chapter 7 trustee of Defendant TMLG (“Trustee”) (collectively “Parties”), by and through counsel, have agreed to settle all claims of the Bureau against TMLG, and request that the Court enter this Amended Stipulated Final Judgment and Order (“Amended TMLG Order”), amending the Stipulated Final Judgment and Order entered on June 21, 2017 (ECF No. 404) (“First TMLG Order”) (attached as Exhibit 1 hereto). The

purpose of the amendment is to reflect the Parties' agreement regarding an increase in the redress amount.

FINDINGS

1. The Court has jurisdiction over the Parties and the subject matter of this action, and venue in the Western District of Wisconsin is proper.

2. The Complaint states claims upon which relief can be granted for Defendant TMLG's alleged violations of Regulation O and sections 1031 and 1036 of the CFPA, 12 U.S.C. §§ 5531, 5536.

3. On April 7, 2014, before the commencement of the instant civil action, TMLG filed a voluntary petition for relief under chapter 7 of the United States Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.* (2012) ("Bankruptcy Code"), initiating a bankruptcy case pending in the United States Bankruptcy Court for the Northern District of Illinois ("Bankruptcy Court"), captioned *In re The Mortgage Law Group, L.L.P.*, Case No. 14-12825 ("Bankruptcy Case").

4. The instant civil action against Defendant TMLG, including the enforcement of a judgment other than a money judgment obtained in this action, is not stayed by the Bankruptcy Code, 11 U.S.C. § 362(a), because it is an exercise of the Bureau's police or regulatory powers as a governmental unit pursuant to 11 U.S.C. § 362 (b)(4) and thus falls within an exception to the automatic stay.

5. Pursuant to 11 U.S.C. § 323, the Trustee is the representative of TMLG's bankruptcy estate and has the capacity to sue and be sued.

6. On December 5, 2014, the Bureau timely filed a proof of claim in the Bankruptcy Case seeking \$75,932,959.33 in restitution and civil money penalties for Defendant TMLG's violations of Regulation O and the CFPA as alleged in the Complaint.

7. The Bureau and the Trustee agree to entry of this Amended TMLG Order, without adjudication of any issue of fact or law, to settle and resolve all matters in this dispute arising from the conduct of Defendant TMLG alleged in the Complaint to the date this Amended TMLG Order is entered. The Trustee neither admits nor denies any allegation in the Complaint except as stated in this Amended TMLG Order.

8. For purposes of this Amended TMLG Order, the Trustee admits the facts necessary to establish the Court's jurisdiction over Defendant TMLG, the Trustee and the subject matter of this action.

9. The Trustee is not operating the business of Defendant TMLG and is proceeding with an orderly liquidation under the Bankruptcy Code. Given that the Trustee has agreed not to seek permission to operate TMLG's business, the Bureau has agreed not to seek its customary injunction, compliance and reporting requirements.

10. The Trustee waives service under Rule 4(d) of the Federal Rules of Civil Procedure and waives all rights to seek judicial review or otherwise challenge or contest the validity of this Amended TMLG Order. The Trustee also waives any claim that Defendant TMLG may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action to the date of this Amended TMLG Order. Each Party will bear its own costs and expenses, including, without limitation, attorneys' fees.

11. By order filed January 9, 2017, and entered January 10, 2017, a copy of which is attached to the First TMLG Order as Exhibit A, the Trustee obtained the approval of the Bankruptcy Court to enter into the First TMLG Order.

12. On June 21, 2017, the Court entered the First TMLG Order.

13. In November 2017, Defendants disclosed 184 additional Affected Consumers (defined below), and the fees they paid to TMLG, and additional fees paid by one previously-disclosed Affected Consumer, resulting in \$384,988.78 in net advance fees that was not provided for in the First TMLG Order or in the Bankruptcy Court's order authorizing the Trustee to enter into the First TMLG Order.

14. Upon the Bureau's motion requesting that the Bankruptcy Court reconsider the amount of the Bureau's claim in light of the above newly disclosed information, the Bankruptcy Court entered an order allowing the Bureau's claim including the additional \$384,988.78 and authorizing the Trustee to enter into this Amended TMLG Order that correspondingly increases the redress amount to Affected Consumers. Defendants did not object to the Bureau's motion. A copy of the Bankruptcy Court's May 8, 2018 order is attached hereto as Exhibit 2.

15. Entry of this Amended TMLG Order is in the public interest.

DEFINITIONS

16. The following definitions apply to this Amended TMLG Order:

- a. "Affected Consumer" means any consumer to whom Defendant TMLG or its officers, agents, servants, employees, or attorneys sold or provided Mortgage Assistance Relief Products or Services between May 2011 and January 2013.
- b. "Debt Relief Product or Service" means any product, service, plan, or program represented, expressly or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of a debt or obligation, including, but not limited to, a tax debt or obligation, between a person and one or more creditors or debt collectors, including, but not limited to, a reduction in the balance, interest rate, or fees owed by a person to a creditor or

debt collector.

- c. “Defendants” means all the defendants in this action, individually, collectively, or in any combination, and each of them by whatever names each might be known, and their successors and assigns.
- d. “Effective Date” means the date on which this Amended TMLG Order is entered by the Court.
- e. “Assistant Director for Enforcement” means the Assistant Director of the Office of Enforcement for the Consumer Financial Protection Bureau, or his or her delegee.
- f. “Estate” or “TMLG Estate” means the bankruptcy estate created upon the filing of TMLG’s chapter 7 petition by operation of law pursuant to 11 U.S.C. § 541.
- g. “Mortgage Assistance Relief Product or Service” means any product, 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:
 - i. Stopping, preventing, or postponing any mortgage or deed of trust foreclosure sale of the consumer’s dwelling, any repossession of the consumer's dwelling, or otherwise saving the consumer’s dwelling from foreclosure or repossession;
 - ii. 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;

- iii. Obtaining any forbearance or modification in the timing of payments from any dwelling loan holder or servicer on any dwelling loan;
- iv. 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;
- v. Obtaining any waiver of an acceleration clause or balloon payment contained in any promissory note or contract secured by any dwelling;
or
- vi. 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.

The foregoing includes any manner of claimed assistance to consumers with respect to mortgages, including, but not limited to, auditing or examining a consumer's mortgage or home loan application.

- h. "Person" means an individual, partnership, limited liability partnership, company, limited liability company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity.
- i. "Related Consumer Action" means a private action by or on behalf of one or more consumers or an enforcement action by another governmental agency

brought against Defendant TMLG based on substantially the same facts as described in the Complaint.

- j. “Trustee” means Ronald R. Peterson, Esq., or any person subsequently appointed as chapter 7 trustee in the Bankruptcy Case.
- k. The words “and” and “or” will be understood to have both conjunctive and disjunctive meanings as necessary to make the applicable phrase or sentence inclusive rather than exclusive.

ORDER

IT IS ORDERED that:

I. Cessation of Business Activities

17. As of the Effective Date, Defendant TMLG, whether acting directly or through any other Person, and the Trustee, whether acting directly or through any Person employed by him, are permanently enjoined and restrained from operating TMLG’s business, including providing or offering to provide any Mortgage Assistance Relief Product or Service or any Debt Relief Product or Service.

II. Order to Pay Redress

IT IS FURTHER ORDERED that:

18. A judgment for monetary relief is entered in favor of the Bureau and against Defendant TMLG’s Estate in the amount of \$18,716,725.78 under section 1055(a) of the CFPA, 12 U.S.C. § 5565(a), for the purpose of providing redress to Affected Consumers for the violations described in the Complaint. This redress is to compensate consumers for their actual pecuniary losses.

19. This monetary judgment will be deemed by the Trustee to be an allowed general unsecured claim against TMLG's Estate, subject to 11 U.S.C. §§ 507(a) and 726 governing priorities of expenses and claims in the Bankruptcy Case.

20. Any funds received by the Bureau in satisfaction of this judgment shall be deposited into a fund or funds administered by the Bureau or its agent in accordance with applicable statutes and regulations to be used for redress for Affected Consumers, including, but not limited to, refund of moneys, restitution, damages, or other monetary relief, and for any attendant expenses for the administration of any such redress.

21. If the Bureau determines, in its sole discretion, that providing redress to consumers is wholly or partially impracticable or if funds remain after the administration of redress is completed, any funds not used for equitable relief will be deposited in the U.S. Treasury as disgorgement. The Trustee will have no right to challenge the choice of remedies under this Section or to contest the manner of distribution.

22. Payment of redress to any Affected Consumer under this Amended TMLG Order may not be conditioned on that Affected Consumer waiving any right.

III. Order to Pay Civil Money Penalty

IT IS FURTHER ORDERED that:

23. By reason of the violations of law alleged in the Complaint, and taking into account the factors set forth in the CFPA, 12 U.S.C. § 5565(c)(3), a civil money penalty in favor of the Bureau and against TMLG's Estate is ordered in the amount of \$20,815,000.

24. The Bureau will deposit any payment made to satisfy the judgment for a civil penalty into the Civil Penalty Fund administered by the Bureau under section 1017(d) of the CFPA, 12 U.S.C. § 5497(d).

IV. Additional Monetary Provisions

IT IS FURTHER ORDERED that:

25. Subject to 11 U.S.C. §§ 507(a) and 726 governing priorities of expenses and claims in the Bankruptcy Case, the Trustee must relinquish all dominion, control, and title to the funds paid to the fullest extent permitted by law and no part of the funds may be returned to Defendant TMLG's Estate.

26. In the event of any default on the Trustee's obligations to make payment under this Amended TMLG Order, interest, computed under 28 U.S.C. § 1961, as amended, will accrue on any outstanding amounts not paid from the date of default to the date of payment, and will immediately become due and payable.

27. Under 31 U.S.C. § 7701, the Trustee must, unless he has already done so, provide the Bureau with Defendant TMLG's taxpayer identifying numbers, which may be used for purposes of collecting and reporting on any delinquent amount arising out of this Amended TMLG Order.

28. Within 30 days of the entry of a final judgment, order or settlement in a Related Consumer Action, the Trustee must notify the Assistant Director for Enforcement in writing of the final judgment, order or settlement. That notification must include the amount of redress, if any, that Defendant TMLG's Estate paid or is required to pay to consumers and describe the consumers or classes of consumers to whom that redress has been or will be paid.

V. Pendency of Bankruptcy Case

IT IS FURTHER ORDERED that:

29. The Bureau must, if it has not already done so, seek leave of the Bankruptcy Court to amend and reduce its proof of claim to conform with the judgment amounts set forth in this Amended TMLG Order.

30. The Trustee shall not object to the Bureau's proof of claim as amended.

31. The Trustee's obligations under this Amended TMLG Order will terminate upon the closure of the Bankruptcy Case.

VI. Reporting Requirements

IT IS FURTHER ORDERED that:

32. Given that Defendant TMLG's Estate is being liquidated and the Trustee is not operating and will not seek to operate the business of TMLG, extensive compliance obligations by the Trustee are not warranted. The Trustee shall notify the Bureau of the occurrence of any of the following:

- a. The Trustee's discovery of any assets in the Estate or any assets that could be the subject of a turnover motion by the Trustee;
- b. The Trustee's filing of a motion under 11 U.S.C. § 363 in the Bankruptcy Case to use, sell or lease property of the Estate;
- c. The Trustee's filing of any interim report to the Bankruptcy Court; and
- d. The closure of the Bankruptcy Case.

The Trustee must provide this notice at least 30 days before the development or as soon as practicable after learning about the development, whichever is sooner.

VII. Notices

IT IS FURTHER ORDERED that:

33. Unless otherwise directed in writing by the Bureau, the Trustee must provide all submissions, requests, communications, or other documents relating to this Amended TMLG Order in writing, with the subject line, "Re: The Mortgage Law Group LLP, No. 3:14-cv-00513 (W.D. Wis.)" and send them to:

Assistant Director for Enforcement
Consumer Financial Protection Bureau
ATTENTION: Office of Enforcement
1990 K Street, N.W.
Washington D.C. 20006;

and

Contemporaneously by email to Enforcement_Compliance@cfpb.gov

VIII. Cooperation With the Bureau

IT IS FURTHER ORDERED that:

34. In connection with this action, the Amended TMLG Order, or any subsequent investigations related to or associated with the transactions or occurrences that are the subject of the Complaint, the Trustee shall cooperate in good faith with the Bureau to the extent there are funds available to the Estate to pay the costs of such cooperation.

35. Within 21 calendar days of receipt of a written request from the Bureau, the Trustee must provide any documents or information that are the subject of the request that are reasonably available to him.

36. Nothing in this Amended TMLG Order will limit the Bureau's lawful use of civil investigative demands under 12 C.F.R. § 1080.6 or other compulsory process.

IX. Release

37. The Bureau releases and discharges Defendant TMLG's Estate from all potential liability for violations of law that the Bureau has or might have asserted based on the practices described in the Complaint, to the extent such practices occurred before the Effective Date and the Bureau knows about them as of the Effective Date. This release does not preclude or affect any right of the Bureau to determine and ensure compliance with the Amended TMLG Order, or to seek penalties for any violations of the Amended TMLG Order.

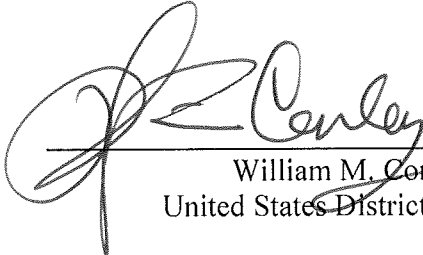
38. This Amended TMLG Order shall not prejudice or otherwise negatively affect the Bureau's claims against the Defendants in this action other than TMLG. Nothing in this Amended TMLG Order shall be deemed to preclude the Bureau from pursuing its claims against the remaining Defendants in this action or to release the remaining Defendants from the Bureau's claims.

39. Nothing in this Amended TMLG Order is intended to permit, nor does the Bureau assert, a claim against the Trustee in his personal capacity.

X. Retention of Jurisdiction

40. The Court shall retain jurisdiction over matters pertaining to the Amended TMLG Order for purposes of its construction, modification, and enforcement. The Parties may jointly seek to modify the terms of the Amended TMLG Order, which may be modified only by Court order.

SO ORDERED this 15th day of November, 2018.



William M. Conley
United States District Judge

Entered this 15th day of November 2018.

s/ J. Smith, Deputy Clerk

Peter Oppeneer
Clerk of Court