

**UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION**

Case No. 9:06-CV-1899-PMD

FEDERAL TRADE COMMISSION,)
)
Plaintiff,)
)
v.)
)
CORNERSTONE MARKETING LLC,)
a South Carolina limited liability company,)
)
SIDNEY PUTNAM,)
individually and d/b/a Prime Time Marketing,)
Prestige Marketing, Metropolitan Placement)
Services, and Best Locations,)
)
CAROL PUTNAM,)
individually and d/b/a Prestige Marketing and)
Best Locations,)
)
CHRISTOPHER PUTNAM,)
individually and as a member, organizer, or)
manager of Cornerstone Marketing LLC, and)
)
MELANIE PUTNAM,)
individually and d/b/a Prestige Marketing and)
Best Locations,)
)
Defendants.)
)

STIPULATED PERMANENT INJUNCTION AND FINAL ORDER

This matter comes before the Court on Complaint of Plaintiff, Federal Trade Commission (“FTC” or “Commission”), against Defendants Cornerstone Marketing LLC, Sidney Putnam, Carol Putnam, Christopher Putnam, and Melanie Putnam. On June 28, 2006, the Commission

filed a Complaint for a permanent injunction and other equitable relief in this matter pursuant to Sections 5(a) and 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a) and 53(b). The FTC charged Defendants Cornerstone Marketing LLC, Sidney Putnam, Carol Putnam, Christopher Putnam, and Melanie Putnam with engaging in deceptive acts or practices in connection with the marketing and sale of location services to purchasers of business ventures, in violation of Section 5 of the FTC Act, 15 U.S.C. § 45. The Commission and Defendants have agreed to settle all matters of dispute between them without adjudication. Accordingly, it is hereby **ORDERED, ADJUDGED, AND DECREED:**

FINDINGS

1. This Court has jurisdiction of the subject matter of this case and the parties hereto pursuant to 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and 15 U.S.C. §§ 45(a) and 53(b).
2. Venue in the District of South Carolina is proper as to all parties.
3. The activities of Defendants Cornerstone Marketing LLC, Sidney Putnam, Carol Putnam, Christopher Putnam, and Melanie Putnam are in or affecting commerce, as defined in the FTC Act, 15 U.S.C. § 44.
4. The Complaint states a claim upon which relief may be granted against Defendants Cornerstone Marketing LLC, Sidney Putnam, Carol Putnam, Christopher Putnam, and Melanie Putnam under Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a) and 53(b).
5. This Final Order is for settlement purposes only and does not constitute and shall not be interpreted to constitute an admission by Defendants that they engaged in violations of any law or regulation, or that the facts alleged in the complaint, other than jurisdictional facts, are

true.

6. Defendants Cornerstone Marketing LLC, Sidney Putnam, Carol Putnam, Christopher Putnam, and Melanie Putnam waive all rights to seek judicial review or otherwise challenge or contest the validity of this Final Order.

7. Defendants Cornerstone Marketing LLC, Sidney Putnam, Carol Putnam, Christopher Putnam, and Melanie Putnam further waive any claim, including any claim for attorneys' fees, under the Equal Access to Justice Act, 28 U.S.C. § 2412, and any claims they may have against the Commission, its employees, representatives, or agents.

8. Defendants Cornerstone Marketing LLC, Sidney Putnam, Carol Putnam, Christopher Putnam, and Melanie Putnam enter into this Final Order freely and without coercion and acknowledge that they have read, understand, and are prepared to abide by the provisions of this Final Order.

9. This Final Order is in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law.

10. Entry of this Final Order is in the public interest.

DEFINITIONS

For the purpose of this Final Order, the following definitions shall apply:

1. "Defendants" mean Cornerstone Marketing LLC, Sidney Putnam, Carol Putnam, Christopher Putnam, and Melanie Putnam.

2. "Document" is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from

which information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy of a document is a separate document within the meaning of the term.

3. “Material” means likely to affect a person’s choice of, or conduct regarding, goods or services.

4. “Person” means a natural person, an organization or other legal entity, including a corporation, partnership, sole proprietorship, limited liability company, association, or cooperative, or any other group or combination acting as an entity.

5. The term “*and*” also means “*or*,” and the term “*or*” also means “*and*.”

ORDER

I. PROHIBITED BUSINESS ACTIVITIES

IT IS ORDERED, in connection with the advertising, promoting, offering for sale, or sale of location services, that Defendants and their successors, assigns, officers, agents, directors, servants, employees, and independent contractors, and all other persons or entities in active concert or participation with any of them and who receive actual notice of this Final Order by personal service or otherwise, whether acting directly or through any corporation, subsidiary, division or other device, are hereby permanently restrained and enjoined from failing to secure locations for consumers, within ninety (90) days after the transfer of any funds to Defendants by consumers; *provided, however*, if unable to secure any or all locations within that period of time, Defendants must refund, within thirty (30) days after the 90-day period stated above, any or all fees or consideration paid by the consumer for those locations not secured.

II. PROHIBITED MISREPRESENTATIONS

IT IS FURTHER ORDERED, in connection with the advertising, promoting, offering for sale, or sale of location services or any other good or service, that Defendants and their successors, assigns, officers, agents, directors, servants, employees, and independent contractors, and all other persons or entities in active concert or participation with any of them and who receive actual notice of this Final Order by personal service or otherwise, whether acting directly or through any corporation, subsidiary, division or other device, are hereby permanently restrained and enjoined from making, or assisting in the making of, any statement or representation of material fact, whether directly or by implication, orally or in writing, that is false or misleading in any manner. Such statements of material fact include, but are not limited to, the following:

1. The availability or profitability of locations in a purchaser's geographic area;
2. The income, profits, or sales volume that a purchaser is likely to achieve or that have actually been achieved by prior purchasers;
3. The length of time that it is likely to take a purchaser to recoup the entire purchase price or investment;
4. That Defendants already have obtained or otherwise identified specific locations in a purchaser's area;
5. That Defendants have a locator operating in or near to the purchaser's geographic area;
6. The amount of competition within, or a purchaser's territorial rights to, any geographic territory;

7. The terms and conditions of any refund, relocation, cancellation, exchange, repurchase, or guarantee policy; and
8. That Defendants will provide the goods or services claimed by Defendants.

III. PROHIBITIONS AGAINST DISTRIBUTION OF CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Defendants and their successors, assigns, officers, agents, directors, servants, employees, and independent contractors, and all other persons or entities in active concert or participation with any of them and who receive actual notice of this Final Order by personal service or otherwise, whether acting directly or through any corporation, subsidiary, division or other device, are permanently restrained and enjoined from selling, renting, leasing, transferring or otherwise disclosing the individual or corporate name, address, telephone number, credit card number, bank account number or other identifying information of any person who paid any money to Defendants, at any time, in connection with the advertising, promotion, offering for sale, or sale of location services; *provided, however*, that Defendants may disclose such identifying information to a law enforcement agency, or as required by any law, regulation or court order.

IV. MONETARY JUDGMENT AND CONSUMER REDRESS

IT IS FURTHER ORDERED that:

- A. Judgment in the amount of \$3 million for the payment of equitable monetary relief is hereby entered in favor of the Plaintiff Federal Trade Commission against the Defendants Cornerstone Marketing LLC, Sidney Putnam, Carol Putnam, Christopher Putnam, and Melanie Putnam, jointly and severally.
- B. Defendants specifically acknowledge that any funds paid to Plaintiff under this

Final Order may be used at Plaintiff's sole election and discretion, for payment of consumer redress and/or disgorgement, for the paying any attendant expenses for administration of any redress fund, or for any other lawful purpose.

C. Except as provided in Paragraph V of this Final Order, the Judgment shall be suspended as to Defendants Sidney and Carol Putnam if they pay to the Federal Trade Commission the sum of \$50,000, to be paid in full within 120 days of the date of entry of this Final Order.

D. Except as provided in Paragraph V of this Final Order, the Judgment shall be suspended as to Defendants Christopher and Melanie Putnam if they pay to the Federal Trade Commission the sum of \$5,000, to be paid in full within 120 days of the date of entry of this Final Order; and if the residence and real property at 85 Westbury Parkway, Bluffton, South Carolina 29910, the home of Defendants Christopher and Melanie Putnam, ("the house") is sold and the Commission receives the funds from the sale in accordance with Paragraph VII. F. of this Final Order.

E. Defendants shall pay all amounts due to the Commission in cash by electronic funds transfer to the Commission, or to such agent as the Commission may direct, pursuant to instructions provided by the Commission.

F. All funds paid to the Commission pursuant to this Final Order shall be deposited into a fund administered by the Commission or its agent to be used, at Plaintiff's sole discretion, for equitable relief, including but not limited to consumer redress and any attendant expenses for the administration of any redress fund. In the event that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the Commission may, at its

sole discretion, apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to the Defendants' practices alleged in the Complaint. Any funds not used for such equitable relief shall be deposited in the United States Treasury as disgorgement. Defendants shall have no right to challenge the Commission's choice of remedies under this Paragraph or the manner of distribution chosen by the Commission.

G. All funds paid pursuant to this Final Order are irrevocably paid to the Commission for purposes of settlement between the Commission and Defendants, and Defendants relinquish all right, title, and interest to assets held by the Commission in connection with this case.

H. Judgment entered pursuant to this Paragraph is equitable monetary relief, solely remedial in nature, and is not a fine, penalty, forfeiture, or punitive assessment.

I. Defendants agree that, if they fail to timely and completely fulfill the payment and other obligations set forth in this Final Order, the facts as alleged in the Complaint filed in this matter shall be taken as true in any subsequent litigation filed by the Commission to enforce its rights pursuant to this Final Order, including but not limited to, a nondischargeability complaint in any bankruptcy case.

J. Defendants are hereby required, in accordance with 31 U.S.C. § 7701, to furnish to the Commission Defendants' taxpayer identifying numbers (social security number or employer identification number), which shall be used for purposes of collecting and reporting on any delinquent amount arising out of Defendants' relationship with the government.

V. RIGHT TO REOPEN AS TO MONETARY JUDGMENT

IT IS FURTHER ORDERED that:

A. The Commission's agreement to, and the Court's approval of, this Final Order is expressly premised upon the truthfulness, accuracy, and completeness of the financial statements signed by each as follows:

1. Sidney Putnam, dated March 26, 2007;
2. Carol Putnam, dated March 26, 2007;
3. Melanie Putnam, dated April 6, 2007; and
4. Christopher Putnam, dated May 6, 2007,

which contain material information relied upon by the Commission in negotiating and agreeing to the terms of this Final Order.

B. If, upon motion, this Court should find that any Defendant has made a material misrepresentation or omitted material information concerning their financial condition, then the Court, without further adjudication, shall enter judgment holding said Defendant liable to the Commission in the amount of \$ 3 million for consumer redress. This amount shall become immediately due and payable, and interest computed at the rate prescribed under 28 U.S.C. § 1961, as amended, shall immediately begin to accrue on the unpaid balance.

C. Should this Final Order be modified pursuant to this Paragraph, this Final Order, in all other respects, shall remain in full force and effect unless otherwise ordered by this Court. Any proceedings instituted under this Paragraph are in addition to, and not in lieu of, any other civil or criminal remedies as may be provided by law, including any other proceedings that the FTC may initiate to enforce this Final Order.

VI. SALE OF THE HOUSE

Defendants Christopher and Melanie Putnam hereby authorize the sale of the house to be conducted in the manner described in this Paragraph, with all proceeds of that sale to be paid to the Federal Trade Commission. Defendants Christopher and Melanie Putnam shall immediately on entry of this Order take all steps necessary to assist the Liquidation Agent, appointed by the court in Paragraph VII of this Final Order, in the sale of the house. Defendants Christopher and Melanie Putnam shall take all steps necessary to ensure that the house and its systems are maintained in good working order, and that all mortgages, insurance, taxes and fees are timely paid. Defendants Christopher and Melanie Putnam shall have the right to live in the house until such time as a sale is effected and shall be given thirty-days notice to vacate the premises in the event of such sale. Upon sale, Defendants Christopher and Melanie Putnam hereby forever waive, release, discharge and disclaim all right, title and interest, including any homestead, in the property described in this Paragraph. Defendants Christopher and Melanie Putnam shall be responsible for all taxes and fees assessed against them resulting from the sale of the house, except those covered in Paragraph VII. F.

If Defendants Christopher and Melanie Putnam fail to take all necessary measures to ensure that the house and its systems are maintained in good working order and that all mortgages, insurance, taxes, and fees are timely paid, and the Liquidation Agent is required to take any of those necessary measures, Defendants shall be liable to the Commission for the costs incurred.

VII. DUTIES OF LIQUIDATION AGENT

IT IS FURTHER ORDERED that Jerry H. Reeves, IV, be appointed as

Liquidation Agent for the sole purpose of selling the house described in Paragraph IV. D. above, with directions and authority to accomplish the following:

- A. Perform all acts necessary to protect, conserve, preserve, and prevent waste or dissipation of the house until its sale, should Defendants fail to do so;
- B. Sell the house;
- C. Execute all documentation necessary for or relating to the sale of the house;
- D. Enter into agreements in connection with the reasonable and necessary performance of the Liquidation Agent's duties, including, but not limited to, the retention of assistants, agents, or other professionals to assist in the sale of the house;
- E. Prepare and submit periodic reports, as requested, to this Court and to the Plaintiff, describing the Liquidation Agent's efforts to comply with the terms of this Final Order, and recommending any additional action required by this Court;
- F. Distribute to the Commission, without further order of the Court, the funds received from the sale of the house, less the Liquidation Agent's commission and any transfer fees, recording fees or other fees resulting from the sale of the house, and reasonable costs required by the duties enumerated in Paragraph VII. A., above. The Liquidation Agent's commission and any transfer fees, recording fees or other fees resulting from the sale of the house and such aforementioned reasonable costs shall be paid from the proceeds of the sale at the time the house is sold;
- G. If the house is not sold within four months of the date on which the Liquidation

Agent enters the house into the Multi-Listing Service, the house shall be auctioned. The auction shall occur by the sixth month from the date on which the Liquidation Agent enters the house into the Multi-Listing Service. Such auction shall be accomplished by requiring a minimum bid to be set by the Commission. The amounts owed on the mortgage and the equity line of credit, as sworn to in the financial statement submitted by Melanie Putnam on April 6, 2007, less any paydowns of those amounts by the time of the auction, shall be included in the minimum bid set by the Commission. All remaining funds after auction will be paid to the Federal Trade Commission. If the house remains unsold after auction, the house will be marketed and re-auctioned until sold;

- H. The Liquidation Agent is entitled to reasonable compensation for the performance of his duties pursuant to this Final Order as follows: the Liquidation Agent shall be entitled to a commission equal to 6% of the sales price of the house. Any fees incurred by the Liquidation Agent, such as the retention of assistants, agents, or other professionals to assist in the sale of the house, shall come out of the 6% commission paid to the Liquidation Agent upon sale of the house. Any reasonable costs required to be incurred by the Liquidation Agent under Paragraph VII. A. shall be paid from the proceeds of the sale of the house. The Liquidation Agent's compensation is to be paid solely from the proceeds of the sale of the house, and such payments shall have priority over all other distributions from the house except for any transfer fees, recording fees or other fees resulting from the sale of the house; and

