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

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FEDERAL TRADE COMMISSION,

Plaintiff,

vs.

ALLIANCE DOCUMENT
PREPARATION, LLC, *et al.*,

Defendant, and

DIRECT CONSULTING SERVICES,
LLC; and CAPITAL DOC PREP, INC.,

Relief Defendant.

Civ. No. CV 17-7048 SJO (KSx)

~~XXXXXX~~
**[Proposed] DEFAULT JUDGMENT
FOR PERMANENT INJUNCTION
AND FINAL ORDER AS TO
DEFENDANT ELITE
CONSULTING SERVICE, LLC fka
First Grad Aid, LLC, also dba First
Grad Aid.**

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”) filed its Complaint alleging violations of Section 5 of the FTC Act, 15 U.S.C. § 45(a) and the Telemarketing Sales Rule, 16 C.F.R. § 310.3, *et seq.*, in connection with the deceptive sale of student loan debt relief services on September 25, 2017. The

1 Clerk of the Court entered a Default against Defendant Elite Consulting Services,
2 LLC (“Defendant”), on December 11, 2017. The FTC has now moved the Court
3 for entry of a Default Judgment against ECS pursuant to Rule 54(b) and 55(b) (2).
4 Having considered the pleadings, papers, and argument, the Court hereby
5 **GRANTS** the FTC’s motion and **IT IS FURTHER ORDERED** as follows:

6 **FINDINGS**

7 1. This is an action by the FTC instituted under Section 13(b) of the
8 FTC Act, 15 U.S.C. § 45(a) and the Telemarketing Sales Rule, 15 C.F.R. part 3.
9 The Complaint seeks both permanent injunctive relief and equitable monetary
10 relief for the Defendant’s deceptive acts or practices as alleged therein. The Court
11 has jurisdiction over this matter.

12 2. The FTC has authority to seek the relief it has requested, pursuant to
13 Section 13(b) of the FTC Act.

14 3. The Complaint states a claim upon which relief can be granted
15 against Defendant.

16 4. This Court has jurisdiction over the subject matter of this case and
17 has jurisdiction over the Defendant. Venue in the Central District of California is
18 proper.

19 5. The activities of Defendant, as alleged in the Complaint, are taken as
20 true against Defendant. Those allegations and evidence supporting them establish
21 that Defendant has violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which
22 prohibits unfair and deceptive acts or practices in or affecting commerce; and that
23 that Defendant has violated the Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part
24 310, which prohibits: (1) misrepresenting directly or by implication, any material
25 aspect of any debt relief service, including, but not limited to, the amount of
26 money or the percentage of the debt amount that the consumer may save by using
27 the service; and (2) requesting or receiving payment of any fees or consideration
28 for any debt relief service until and unless the debt has been renegotiated, settled,

1 reduced, or otherwise altered pursuant to a settlement agreement, debt
 2 management plan, or other such valid contractual agreement executed by the
 3 customer; and the customer has made at least one payment pursuant to that
 4 settlement agreement, debt management plan, or other valid contractual agreement
 5 between the customer and the creditor.

6 6. Defendant, in connection with deceptively marketing and selling
 7 student loan debt relief services, violated Section 5 of the FTC Act and the TSR
 8 by misrepresenting that Defendant would, upon payment of an advance fee,
 9 qualify, approve, determine eligibility for, or enroll consumers in a program that
 10 would permanently reduce their monthly student loan payments or result in loan
 11 forgiveness or discharge.

12 7. This action and the relief awarded herein are in addition to, and not in
 13 lieu of, other remedies as may be provided by law, including both civil and
 14 criminal remedies.

15 8. Entry of this Order is in the public interest.

16 9. Entry of this Order is final and resolves Plaintiff's claims against
 17 Defendant.

18 DEFINITIONS

19 A. **"Assisting others"** includes:

20 1. performing customer service functions, including receiving or
 21 responding to consumer complaints;

22 2. formulating or providing, or arranging for the formulation or
 23 provision of, any advertising or marketing material, including any telephone sales
 24 script, direct mail solicitation, or the design, text, or use of images of any Internet
 25 website, email, or other electronic communication;

26 3. formulating or providing, or arranging for the formulation or
 27 provision of, any marketing support material or service, including web or Internet
 28

1 Protocol addresses or domain name registration for any Internet websites, affiliate
2 marketing services, or media placement services;

3 4. providing names of, or assisting in the generation of, potential
4 customers;

5 5. performing marketing, billing, or payment services of any kind;
6 or

7 6. acting or serving as an owner, officer, director, manager, or
8 principal of any entity.

9 B. “Financial product or service” means any product, service, plan, or
10 program represented, expressly or by implication, to:

11 1. provide any consumer, arrange for any consumer to receive, or
12 assist any consumer in receiving, a loan or other extension of credit;

13 2. provide any consumer, arrange for any consumer to receive, or
14 assist any consumer in receiving, credit, debit, or stored value cards;

15 3. improve, repair, or arrange to improve or repair, any
16 consumer’s credit record, credit history, or credit rating; or

17 4. provide advice or assistance to improve any consumer’s credit
18 record, credit history, or credit rating.

19 C. “Secured or unsecured debt relief product or service” means:

20 1. With respect to any mortgage, loan, debt, or obligation between
21 a person and one or more secured or unsecured creditors or debt
22 collectors, any product, service, plan, or program represented,
23 expressly or by implication, to:

24 a. stop, prevent, or postpone any mortgage or deed of
25 foreclosure sale for a person’s dwelling, any other sale of
26 collateral, any repossession of a person’s dwelling or other
27 collateral, or otherwise save a person’s dwelling or other
28 collateral from foreclosure or repossession;

1 b. negotiate, obtain, or arrange a modification, or
2 renegotiate, settle, or in any way alter any terms of the
3 mortgage, loan, debt, or obligation, including a reduction in the
4 amount of interest, principal balance, monthly payments, or
5 fees owed by a person to a secured or unsecured creditor or debt
6 collector;

7 c. obtain any forbearance or modification in the timing of
8 payments from any secured or unsecured holder or servicer of
9 any mortgage, loan, debt, or obligation;

10 d. negotiate, obtain, or arrange any extension of the period
11 of time within which a person may (i) cure his or her default on
12 the mortgage, loan, debt, or obligation, (ii) reinstate his or her
13 mortgage, loan, debt, or obligation, (iii) redeem a dwelling or
14 other collateral, or (iv) exercise any right to reinstate the
15 mortgage, loan, debt, or obligation or redeem a dwelling or
16 other collateral;

17 e. obtain any waiver of an acceleration clause or balloon
18 payment contained in any promissory note or contract secured
19 by any dwelling or other collateral; or

20 f. negotiate, obtain, or arrange (i) a short sale of a dwelling
21 or other collateral, (ii) a deed-in-lieu of foreclosure, or (iii) any
22 other disposition of a mortgage, loan, debt, or obligation other
23 than a sale to a third party that is not the secured or unsecured
24 loan holder.

25 The foregoing shall include any manner of claimed assistance, including
26 auditing or examining a person's application for the mortgage, loan, debt, or
27 obligation.

2. With respect to any loan, debt, or obligation between a person and one or more unsecured creditors or debt collectors, any product, service, plan, or program represented, expressly or by implication, to:

- a. repay one or more unsecured loans, debts, or obligations; or
- b. combine unsecured loans, debts, or obligations into one or more new loans, debts, or obligations.

E. **“Defendant”** means Elite Consulting Service, LLC, fka First Grad Aid, LLC, and also dba First Grad Aid, and its successors and assigns.

ORDER

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

IT IS ORDERED that Defendant is permanently restrained and enjoined from advertising, marketing, promoting, offering for sale, or selling, or assisting others in the advertising, marketing, promoting, offering for sale, or selling, of any secured or unsecured debt relief product or service.

II. PROHIBITION AGAINST MISREPRESENTATIONS RELATING TO FINANCIAL PRODUCTS AND SERVICES

IT IS FURTHER ORDERED that Defendant, and its officers, agents, employees, and attorneys, and all other persons or entities in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the advertising, marketing, promoting, offering for sale, or selling of any financial product or service, are permanently restrained and enjoined from misrepresenting, or assisting others in misrepresenting, expressly or by implication:

A. the terms or rates that are available for any loan or other extension of credit, including:

- 1. closing costs or other fees;
- 2. the payment schedule, monthly payment amount(s), any balloon

1 payment, or other payment terms;

2 3. the interest rate(s), annual percentage rate(s), or finance
3 charge(s), or whether they are fixed or adjustable;

4 4. the loan amount, credit amount, draw amount, or outstanding
5 balance; the loan term, draw period, or maturity; or any other term of
6 credit;

7 5. the amount of cash to be disbursed to the borrower out of the
8 proceeds, or the amount of cash to be disbursed on behalf of the
9 borrower to any third parties;

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

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

16 B. the ability to improve or otherwise affect a consumer's credit record,
17 credit history, credit rating, or ability to obtain credit, including that a consumer's
18 credit record, credit history, credit rating, or ability to obtain credit can be
19 improved by permanently removing current, accurate negative information from
20 the consumer's credit record or history;

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

22 D. any other fact material to consumers concerning any financial product
23 or service, such as the total costs; any material restrictions, limitations, or
24 conditions; or any material aspect of its performance, efficacy, nature, or central
25 characteristics.

26 **III. PROHIBITION AGAINST MISREPRESENTATIONS RELATING**
27 **TO ANY PRODUCTS OR SERVICES**

28 **IT IS FURTHER ORDERED** that Defendant, and its officers, agents,

1 employees, and attorneys, and all other persons in active concert or participation
 2 with any of them, who receive actual notice of this Order, whether acting directly
 3 or indirectly, in connection with advertising, marketing, promoting, offering for
 4 sale, or selling of any product, service, plan, or program, are hereby permanently
 5 restrained and enjoined from misrepresenting, or assisting others in
 6 misrepresenting, expressly or by implication:

7 A. any material aspect of the nature or terms of any refund, cancellation,
 8 exchange, or repurchase policy, including the likelihood of a consumer obtaining a
 9 full or partial refund, or the circumstances in which a full or partial refund will be
 10 granted to the consumer;

11 B. that any person is affiliated with, endorsed or approved by, or
 12 otherwise connected to any other person; government entity; public, non-profit, or
 13 other non-commercial program; or any other program;

14 C. the nature, expertise, position, or job title of any person who provides
 15 any product, service, plan, or program;

16 D. the person who will provide any product, service, plan, or program to
 17 any consumer;

18 E. that any person providing a testimonial has purchased, received, or
 19 used the product, service, plan, or program;

20 F. that the experience represented in a testimonial of the product, service,
 21 plan, or program represents the person's actual experience resulting from the use of
 22 the product, service, plan, or program under the circumstances depicted in the
 23 advertisement; or

24 G. any other fact material to consumers concerning any good or service,
 25 such as the total costs; any material restrictions, limitations, or conditions; or any
 26 material aspect of its performance, efficacy, nature, or central characteristics.
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1 **V. MONETARY JUDGMENT**

2 **IT IS FURTHER ORDERED** that:

3 A. Judgment in the amount of \$1,792,753.68 is entered in favor of the
4 Commission against Defendant as equitable monetary relief.

5 B. Defendant waives and releases any rights or claims to its funds in the
6 possession of the court-appointed receiver, Tom McNamara, remaining after
7 payment of the fees authorized by the Court to the Receiver. Payment to the FTC,
8 if any of said funds, shall be made by the holder of the funds by electronic fund
9 transfer in accordance with instructions provided to the holder of the funds by a
10 representative of the Commission. Upon transfer of these funds, the Receivership
11 is terminated as to Defendant.

12 **VI. OTHER MONETARY PROVISIONS**

13 A. Defendant waives and releases any rights or claims in all assets
14 transferred pursuant to this Order and may not seek the return of any assets.

15 B. The facts alleged in the Amended Complaint will be taken as true,
16 without further proof, in any subsequent civil litigation by or on behalf of the
17 Commission, including in a proceeding to enforce its rights to any payment or
18 money judgment pursuant to this Order, such as a non-dischargeability complaint
19 in any bankruptcy case.

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

24 D. Upon entry of this Order, the freeze on the assets of Defendant
25 previously imposed in this matter is lifted.

26 **VII. CUSTOMER INFORMATION**

27 **IT IS FURTHER ORDERED** that Defendant and their officers, agents,
28 employees, and attorneys, and those persons or entities in active concert or

1 participation with them who receive actual notice of this Order by personal service
 2 or otherwise, whether acting directly or through any corporation, subsidiary,
 3 division, or other device, are hereby permanently restrained and enjoined from
 4 directly or indirectly:

5 A. disclosing, using, or benefitting from customer information, including
 6 the name, address, telephone number, email address, social security number, other
 7 identifying information, or any data that enables access to a customer's account
 8 (including a credit card, bank account, or other financial account), that any
 9 Defendant obtained prior to entry of this Order; and

10 B. failing to destroy such customer information in all forms in their
 11 possession, custody, or control within thirty (30) days after receipt of written
 12 direction to do so from a representative of the Commission.

13 *Provided*, however, that customer information need not be disposed of,
 14 and may be disclosed, to the extent requested by a government agency or required
 15 by law, regulation, or court order.

16 **VIII. ORDER ACKNOWLEDGMENTS**

17 **IT IS FURTHER ORDERED** that Defendant obtain acknowledgments
 18 of receipt of this Order:

19 A. Defendant, within seven (7) days of entry of this Order, must submit
 20 to the Commission an acknowledgment of receipt of this Order sworn under
 21 penalty of perjury.

22 B. For ten (10) years after entry of this Order, Defendant must deliver a
 23 copy of this Order to: (1) all principals, officers, directors, and LLC managers and
 24 members; (2) all employees with managerial responsibilities for conduct related to
 25 the subject matter of this Order and agents, and representatives who participate in
 26 conduct affecting compliance with this Order; (3) any business entity resulting
 27 from any change in structure as set forth in the Section titled Compliance
 28 Reporting. Delivery must occur within seven (7) days of entry of this Order for

1 current personnel. For all others, delivery must occur before they assume their
2 responsibilities.

3 C. From each individual or entity to which Defendant delivered a copy of
4 this Order, Defendant must obtain, within thirty (30) days, a signed and dated
5 acknowledgement of receipt of this Order.

6 **IX. COMPLIANCE REPORTING**

7 **IT IS FURTHER ORDERED** that Defendant make timely submissions
8 to the Commission:

9 A. One year after entry of this Order, Defendant must submit a
10 compliance report, sworn under penalty of perjury:

11 1. Defendant must: (a) identify the primary physical, postal, and email
12 address and telephone number, as designated points of contact, which
13 representatives of the Commission may use to communicate with Defendant; (b)
14 identify all of Defendant's businesses by all of their names, telephone numbers,
15 and physical, postal, email, and Internet addresses; (c) describe the activities of
16 each business, including the goods and services offered, the means of advertising,
17 marketing, and sales, and the involvement of any other Defendant (which
18 Individual Defendant must describe if he knows or should know due to his own
19 involvement); (d) describe in detail whether and how Defendant is in compliance
20 with each Section of this Order; and (e) provide a list of all domain names held or
21 registered by Defendant; and (f) provide a copy of each Order Acknowledgment
22 obtained pursuant to this Order, unless previously submitted to the Commission.

23 B. For ten (10) years after entry of this Order, Defendant must submit a
24 compliance notice, sworn under penalty of perjury, within fourteen (14) days of
25 any change in the following:

26 1. Defendant must report any change in: (a) any designated point of
27 contact; or (b) the structure of the Corporate Defendant or any entity that
28 Defendant has any ownership interest in or controls directly or indirectly that may

1 affect compliance obligations arising under this Order, including: creation,
 2 merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that
 3 engages in any acts or practices subject to this Order.

4 C. Defendant must submit to the Commission notice of the filing of any
 5 bankruptcy petition, insolvency proceeding, or similar proceeding by or against
 6 such Defendant within fourteen (14) days of its filing.

7 D. Any submission to the Commission required by this Order to be
 8 sworn under penalty of perjury must be true and accurate and comply with 28
 9 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under
 10 the laws of the United States of America that the foregoing is true and correct.
 11 Executed on: _____” and supplying the date, signatory’s full name, title (if
 12 applicable), and signature.

13 E. Unless otherwise directed by a Commission representative in writing,
 14 all submissions to the Commission pursuant to this Order must be emailed to
 15 DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to:
 16 Associate Director for Enforcement, Bureau of Consumer Protection, Federal
 17 Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The
 18 subject line must begin: *FTC v. Alliance Document Preparations, LLC, et al.*,
 19 Matter No. X170054.

20 X. RECORDKEEPING

21 **IT IS FURTHER ORDERED** that Defendant must create certain records
 22 for ten (10) years after entry of the Order, and retain each such record for five (5)
 23 years. Specifically, Defendant must create and retain the following records:

24 A. Accounting records showing the revenues from all goods or services
 25 sold;

26 B. Personnel records showing, for each person providing services,
 27 whether as an employee or otherwise, that person’s: name; addresses; telephone
 28 numbers; job title or position; dates of service; and (if applicable) the reason for

1 termination;

2 C. Records of all consumer complaints and refund requests, whether
3 received directly or indirectly, such as through a third party, and any response;

4 D. All records necessary to demonstrate full compliance with each
5 provision of this Order, including all submissions to the Commission; and

6 E. A copy of each unique advertisement or other marketing material.

7 **XI. COMPLIANCE MONITORING**

8 **IT IS FURTHER ORDERED** that for the purpose of monitoring
9 Defendants' compliance with this Order, including any failure to transfer any
10 assets as required by this Order:

11 A. Within fourteen (14) days of receipt of a written request from a
12 representative of the Commission, each Defendant must submit additional
13 compliance reports or other requested information, which must be sworn under
14 penalty of perjury; appear for depositions; and produce documents for inspection
15 and copying. The Commission is also authorized to obtain discovery, without
16 further leave of court, using any of the procedures prescribed by Federal Rules of
17 Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and
18 69.

19 B. For matters concerning this Order, the Commission is authorized to
20 communicate directly with each Defendant. Defendants must permit
21 representatives of the Commission to interview any employee or other person
22 affiliated with any Defendant who has agreed to such an interview. The person
23 interviewed may have counsel present.

24 C. The Commission may use all other lawful means, including posing,
25 through its representatives as consumers, suppliers, or other individuals or entities,
26 to Defendants or any individual or entity affiliated with Defendants, without the
27 necessity of identification or prior notice. Nothing in this Order limits the
28 Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of

1 the FTC Act, 15 U.S.C. §§ 49, 57b-1.

2 D. Upon written request from a representative of the Commission, any
3 consumer reporting agency must furnish consumer reports concerning Individual
4 Defendant, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C.
5 §1681b(a)(1)

6 **XII. ENTRY OF JUDGMENT**

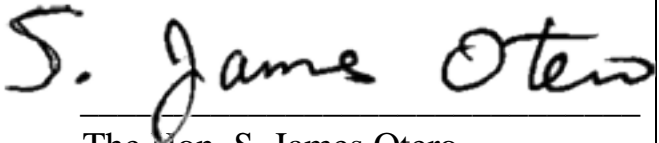
7 **IT IS FURTHER ORDERED** that there is no just reason for delay of entry
8 of this judgment, and that, pursuant to Federal Rule of Civil Procedure 54(b), the
9 Clerk immediately shall enter this Order as a final judgment as to Defendant.

10 **XIII. RETENTION OF JURISDICTION**

11 **IT IS FURTHER ORDERED** that this Court retains jurisdiction of this
12 matter for purposes of construction, modification, and enforcement of this Order.

13 **IT IS SO ORDERED.**

14 August 30, 2018
15 Date: _____



The Hon. S. James Otero
U.S. DISTRICT COURT JUDGE