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

Consumer Financial Protection Bureau,

Plaintiff,

v.

Morgan Drexen, Inc.,
and
Walter Ledda, individually, and as
owner, officer, or manager of Morgan
Drexen, Inc.,

Defendants.

Case No. SACV 13-01267-JLS (JEMx)

**ORDER RE: PERMANENT
INJUNCTION**

1 Before the Court is an Ex Parte Application for a Final Default Judgment Order for
2 Permanent Injunction and Other Equitable Relief Against Defendant Morgan Drexen,
3 Inc. filed by Plaintiff, the Consumer Financial Protection Bureau (“CFPB”). (Appl., Doc.
4 298.) The Chapter 11 Trustee filed a Conditional Opposition. (Doc. 300.) Defendant
5 Walter Ledda also filed an Opposition. (Doc. 301.) Pursuant to Local Rule 7-19, and as
6 set forth below, the Court hereby GRANTS in part CFPB’s ex parte Application.

7 8 **DISCUSSION** 9

10 CFPB commenced this civil action on August 20, 2013, pursuant to: (1) the
11 Telemarketing Sales Rule (“TSR”), 16 C.F.R. part 310; and (2) Sections 1031(a),
12 1036(a), 1054, and 1055 of the Consumer Financial Protection Act of 2010 (“CFPA”), 12
13 U.S.C. §§ 5531(a), 5536(a), 5564, and 5565, by filing a Complaint for permanent
14 injunctive relief, rescission or reformation of contracts, the refund of monies paid,
15 restitution, disgorgement of ill-gotten monies, civil penalties, and other relief for
16 Defendants Morgan Drexen, Inc. and Walter Ledda’s alleged acts or practices in violation
17 of the TSR and the CFPA in connection with the marketing and sale of debt relief
18 services. (Doc. 1.)

19 On April 21, 2015, this Court granted terminating sanctions against Morgan
20 Drexen, Inc. (Order, Doc. 284.) In its Order, the Court held that Morgan Drexen “not
21 only acted willfully and in bad faith by falsifying evidence, but also decided to
22 continuously deceive [its] own trial counsel, opposing counsel, and the Court by
23 engaging in practices that have undermined the integrity of judicial proceedings.” (Id. at
24 17.) The Court found that “Morgan Drexen delayed production [of requested discovery]
25 in order to create hundreds of new bankruptcy petitions to produce to [CFPB] because [it]
26 knew the absence of such petitions would raise serious red flags.” (Id. at 18.) The Court
27 also found that Morgan Drexen engaged in behavior that strongly suggested that it
28 “intended to mislead the Court and [CFPB] by attempting to pass off bankruptcy petitions

1 as if they had been created in the normal course of business.” (Id. at 19.) The Court
2 stated that “the only logical conclusion is that [Morgan Drexen was] attempting to make
3 it seem that more substantive and complete bankruptcy work had been performed on
4 certain consumer files before producing the files to the [CFPB].” (Id. at 20.) Because
5 “the creation and number of bankruptcy petitions is at the heart of the defense in this
6 case,” and thus Morgan Drexen was found to have falsified evidence going to the
7 substantive heart of this case, the Court granted CFPB’s motion for terminating sanctions,
8 which will inevitably result in a default judgment against Morgan Drexen. (Id. at 24.)

9 As such, the factual allegations of the Complaint, save for those concerning
10 damages, are deemed to have been admitted by Defendant. Fed. R. Civ. P. 8(b)(6); *see*
11 *Geddes v. United Fin. Grp.*, 559 F.2d 557, 560 (9th Cir. 1977). Thus, Morgan Drexen is
12 deemed to have violated the CFPA and the TSR in the following ways. First, in the
13 course of selling and telemarketing debt relief services from October 27, 2010 to the
14 present, Morgan Drexen requested or received fees from consumers before renegotiating,
15 settling, reducing, or otherwise altering the terms of at least one of such consumers’
16 debts. Second, Morgan Drexen requested or received payment of these fees prior to
17 consumers making at least one payment pursuant to any settlement agreement, debt-
18 management plan, or other valid contractual agreement between consumers and their
19 creditors. Third, in the course of selling and telemarketing debt relief services from
20 October 27, 2010 to the present, Morgan Drexen required consumers to place up-front fee
21 payments in an account and failed to hold these payments such that consumers own the
22 funds or to allow consumers to withdraw from the debt relief program without penalty
23 and receive all funds held in the account. Fourth, in the course of advertising, marketing,
24 promoting, offering for sale, or the sale of debt relief services from April 26, 2011 to
25 April 11, 2014, Morgan Drexen represented, directly or indirectly, expressly or by
26 implication, that consumers are not charged an advance fee for Morgan Drexen’s debt
27 relief services when, in fact, consumers are charged advance fees for Morgan Drexen's
28 debt relief services. Fifth, in the course of advertising, marketing, promoting, offering for

1 sale, or the sale of debt relief services from December 8, 2010 to April 11, 2014, Morgan
2 Drexen represented, directly or indirectly, expressly or by implication, that consumers
3 who enroll in the debt relief program advertised by Morgan Drexen can be debt free in
4 months of enrolling in the program when, in fact, in numerous instances consumers do
5 not become debt free in months, *i.e.*, less than a year of enrolling in Morgan Drexen's
6 debt relief program.

7 Sections 1054 and 1055 of the CFPA, 12 U.S.C. §§ 5564 and 5565, empower this
8 Court to order relief against Morgan Drexen for violations of the CFPA and the TSR,
9 including restitution and disgorgement of ill-gotten gains resulting from Morgan
10 Drexen's unlawful practices, injunctive relief, and civil money penalties for violations of
11 the Federal consumer financial laws. After considering the pleadings, declarations,
12 exhibits, memoranda of the parties, and the entire record in this matter, and having held a
13 hearing regarding the present Application on June 15, 2015, the Court finds that a
14 permanent injunction restraining and enjoining Morgan Drexen from collecting any
15 additional fees from Affected Consumers (as defined below) is in the public interest.

16 The Court is not convinced that any benefit to consumers would result if the Court
17 allows Morgan Drexen to continue to charge Affected Consumers fees, when they are the
18 very same consumers who have already paid Morgan Drexen an illegal upfront fee.
19 Although the Chapter 11 Trustee argues that the consumers will benefit if Morgan
20 Drexen continues to collect a fee and service the accounts for an additional 90 days or so,
21 the Court believes that any such benefit is speculative, at most. It is more likely that no
22 additional benefit will inure to the Affected Consumers in the course of the next few
23 months, and the only effect will be the continued drain on their accounts, and an
24 additional few million dollars in Morgan Drexen's coffers. Accordingly, the Court finds
25 that the following permanent injunction is warranted.¹

26
27 ¹ In addition, on April 30, 2015, the Court issued an Order Temporarily Freezing Morgan
28 Drexen Inc.'s Assets Pending Resolution of this Litigation. (Asset Freeze Order, Doc.
289.) The Court provided that "Morgan Drexen may be permitted to expend reasonable
monthly business expenses," but only if the parties complied with Section V. of the

DEFINITIONS

For the purposes of this Order, the following definitions shall apply:

1. “Affected Consumer” means consumers who:
 - a. from October 27, 2010 to the present, have paid advance (“up-front”) fees to Morgan Drexen prior to Morgan Drexen renegotiating, settling, reducing, or otherwise altering the terms of at least one of such consumers’ debts; or
 - b. enrolled in a debt relief service with Morgan Drexen in response to Morgan Drexen’s deceptive advertisements.
2. “Assisting others” includes, but is not limited to:
 - a. Providing paralegal or administrative support services;
 - b. performing customer service functions including, but not limited to, receiving or responding to consumer complaints;
 - c. formulating or providing, or arranging for the formulation or provision of, any advertising or marketing material, including, but not limited to, any telephone sales script, direct mail solicitation, or the text of any Internet website, email, or other electronic communication;
 - d. formulating or providing, or arranging for the formulation or provision of, any marketing support material or service, including but

Court’s Order “and if the Court issues an additional order.” (Id. at 3.) On June 15, 2015, at the hearing on the present ex parte Application, counsel for the Chapter 11 Trustee informed the Court that he recently authorized payment of payroll expenses for Morgan Drexen employees without either requesting or receiving the requisite Court approval. This constitutes a direct violation of the Court’s Asset Freeze Order and is sanctionable conduct. The Chapter 11 Trustee must receive approval from the Bankruptcy Court for any future Morgan Drexen payroll, business, or administrative expenses, and may do so by ex parte application, if necessary. If counsel for the Chapter 11 Trustee violates the Court’s Asset Freeze Order again, or the terms of this Order, the Court will issue sanctions.

1 not limited to, web or Internet Protocol addresses or domain name
2 registration for any Internet websites, affiliate marketing services, or
3 media placement services;

- 4 e. providing names of, or assisting in the generation of, potential
5 customers;
- 6 f. performing marketing, billing, or payment services of any kind; and
- 7 g. acting or serving as an owner, officer, director, manager, or principal
8 of any entity.

9 3. "Competent and reliable evidence" means tests, analyses, research, studies,
10 or other evidence based on the expertise of professionals in the relevant area, that has
11 been conducted and evaluated in an objective manner by persons qualified to do so, using
12 procedures generally accepted in the profession to yield accurate and reliable results.

13 4. "Consumer financial product or service" is synonymous in meaning and
14 equal in scope to the definitions of the term in section 1002(5) and (15) of the CFPA,
15 and, subject to applicable restrictions contained in the CFPA, includes but is not limited
16 to:

- 17 a. extending credit and servicing loans, including acquiring, purchasing,
18 selling, brokering, or other extensions of credit (other than solely
19 extending commercial credit to a person who originates consumer
20 credit transactions);
- 21 b. providing financial advisory services to consumers on individual
22 financial matters or relating to proprietary financial products or
23 services, including providing credit counseling to any consumer or
24 providing services to assist a consumer with debt management or debt
25 settlement, modifying the terms of any extension of credit, or avoiding
26 foreclosure;
- 27 c. collecting, analyzing, maintaining, or providing consumer report
28 information or other account information, including information

1 relating to the credit history of consumers, used or expected to be used
2 in connection with any decision regarding the offering or provision of
3 a consumer financial product or service; and

4 d. collecting debt related to any consumer financial product or service.

5 5. “Debt relief product or service” means any product, service, plan, or
6 program represented, expressly or by implication:

7 a. to renegotiate, settle, or in any way alter the terms of payment or other
8 terms of the debt or obligation, including but not limited to a tax debt
9 or obligation, between a person and one or more creditors or debt
10 collectors, including but not limited to, a reduction in the balance,
11 interest rate, or fees owed by a person to a creditor or debt collector;
12 or

13 b. to relate to Chapter 7, Chapter 9, Chapter 11, or Chapter 13 of the
14 U.S. Bankruptcy Code, or any other bankruptcy-related matter.

15 6. “Defendant” or “Morgan Drexen” means Morgan Drexen, Inc., individually,
16 and by whatever names Morgan Drexen might be known.

17 7. “Telemarketing” means a plan, program, or campaign which is conducted to
18 induce the purchase of goods or services or a charitable contribution, by use of one or
19 more telephones and which involves more than one interstate phone call.

20 8. The words “and” and “or” shall be understood to have both conjunctive and
21 disjunctive meanings as necessary to make the applicable phrase or sentence inclusive
22 rather than exclusive.

1 **II.**

2 **PROHIBITED MISREPRESENTATIONS RELATING TO CONSUMER**
3 **FINANCIAL PRODUCTS OR SERVICES**

4 **IT IS FURTHER ORDERED** that Morgan Drexen and its officers, agents,
5 servants, and employees, and those persons in active concert or participation with any of
6 them who receive actual notice of this Order by personal service, facsimile transmission,
7 email, or otherwise, whether acting directly or indirectly in connection with the
8 advertising, marketing, promotion, offering for sale, sale, or performance of any
9 consumer financial product or service, are hereby permanently restrained and enjoined
10 from misrepresenting, or assisting others in misrepresenting, expressly or by implication:

- 11 A. Any aspect of any consumer financial product or service, including but not
12 limited to, the amount of savings a consumer will receive from purchasing, using,
13 or enrolling in such consumer financial product or service;
- 14 B. Any aspect of the terms of any refund, cancellation, exchange, or repurchase
15 policy, including but not limited to, the likelihood of a consumer obtaining a full or
16 partial refund, or the circumstances in which a full or partial refund will be granted
17 to the consumer;
- 18 C. That a consumer will receive any services or representation by an attorney
19 duly licensed to practice law;
- 20 D. The total costs to purchase, receive, or use, or the quantity of, the consumer
21 financial product or service, including that there will be no charge for all or a
22 portion of such service;
- 23 E. Any material restriction, limitation, or condition to purchase, receive, or use
24 the consumer financial product or service;
- 25 F. Any material aspect of the performance, efficacy, nature, or characteristics
26 of the consumer financial product or service; or
- 27 G. Any other fact material to consumers concerning any consumer financial
28 product or service.

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3 **III.**
4 **SUBSTANTIATION FOR BENEFIT, PERFORMANCE, AND EFFICACY**
5 **CLAIMS**

6 **IT IS FURTHER ORDERED** that Morgan Drexen and its officers, agents,
7 servants, and employees, and those persons or entities in active concert or participation
8 with any of them who receive actual notice of this Order by personal service, facsimile
9 transmission, email, or otherwise, whether acting directly or indirectly, in connection
10 with the advertising, marketing, promotion, offering for sale, or sale of any consumer
11 financial product or service are hereby permanently restrained and enjoined from making
12 any representation or assisting others in making any representation, expressly or by
13 implication, about the benefits, performance, or efficacy of any consumer financial
14 product or service, unless, at the time such representation is made, the aforementioned
15 individuals and entities possess and rely upon competent and reliable evidence that
16 substantiates that the representation is true.

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18 **IV.**
19 **PROHIBITION ON DISCLOSING CUSTOMER INFORMATION**

20 **IT IS FURTHER ORDERED** that Morgan Drexen and its officers, agents,
21 servants, and employees who receive actual notice of this Order by personal service,
22 facsimile transmission, email, or otherwise, whether acting directly or indirectly, are
23 permanently restrained and enjoined from:

- 24 A. Disclosing, using, or benefitting from customer information, including the
25 name, address, telephone number, email address, social security number, other
26 identifying information, or any data that enables access to a customer's account
27 (including a credit card, bank account, or other financial account) of any person
28 that Morgan Drexen obtained prior to entry of this Order in connection with the

1 advertising, marketing, promotion, offering for sale or sale of any debt relief
2 product or service.

3 B. Attempting to collect, collecting, selling, or assigning, or otherwise
4 transferring any right to collect payment from any consumer who purchased or
5 agreed to purchase a debt relief product or service from Morgan Drexen.

6 *However*, customer information may be disclosed if requested by a government agency,
7 required by law or regulation, or otherwise approved by this Order or a future court
8 order.

9
10 **V.**

11 **PERMANENT BAN ON FEES**

12 **IT IS FURTHER ORDERED** that:

13 A. As of the date of this Order, Morgan Drexen is permanently restrained and
14 enjoined from collecting any advance fees from consumers who may enroll in any
15 debt relief product or service provided by Morgan Drexen in the future.

16 B. As of the date of this Order, Morgan Drexen is permanently restrained and
17 enjoined from collecting any further fees from Affected Consumers.

18
19 **VI.**

20 **REPORTING REQUIREMENTS**

21 **IT IS FURTHER ORDERED** that:

22 A. Morgan Drexen must notify CFPB of any development that may affect
23 compliance obligations arising under this Order, including but not limited to, a
24 dissolution, assignment, sale, merger, or other action that would result in the
25 emergence of a successor company; the creation or dissolution of a subsidiary,
26 parent, or affiliate that engages in any acts or practices subject to this Order;
27 bankruptcy or insolvency proceeding by or against Morgan Drexen; or a change in
28 Morgan Drexen's name or address. Morgan Drexen must provide this notice at

1 least 30 days before the development or as soon as practicable after the learning
2 about the development, whichever is sooner.

3 B. Within 7 days of the entry of this Order, Morgan Drexen must:

4 1. Designate at least one telephone number and email, physical, and
5 postal address as points of contact, which CFPB may use to communicate
6 with Morgan Drexen;

7 2. Identify all businesses for which Morgan Drexen is the majority
8 owner, or that Morgan Drexen directly or indirectly controls, by all of their
9 names, telephone numbers, and physical, postal, email, and Internet
10 addresses;

11 3. Describe the activities of each such business, including the products
12 and services offered, and the means of advertising, marketing, and sales.

13 C. Morgan Drexen must report any change in the information required to be
14 submitted under this Section at least 30 days before the change or as soon as
15 practicable after the learning about the change, whichever is sooner.
16

17 VII.

18 NOTICES

19 **IT IS FURTHER ORDERED** that:

20 A. Due to the harm already suffered by Affected Consumers, the dissemination
21 of the following notices and information to Affected Consumers and creditors is of
22 the highest priority. These notices must be provided pursuant to the Court's
23 following instructions within the time frame set forth by the Court. The
24 Bankruptcy Court should help to ensure that a proper budget is in place and
25 sufficient funds are available for the provision of these notices, above all else.

26 1. Within 10 days from the date of this Order, Morgan Drexen is to meet
27 and confer with CFPB and create a publicly available website that includes
28 the following information: (1) a brief description of the nature of this action;

1 (2) a summary of the Court’s terminating sanctions order against Morgan
2 Drexen (Doc. 284); (3) a general description of how this Order will effect
3 Morgan Drexen and its relationships with consumers; and (4) an explanation
4 of how the Court’s Orders will affect Affected Consumers for whom
5 Morgan Drexen has negotiated a debt settlement and who are currently
6 engaged in a payment plan pursuant to that debt settlement. The website
7 also must include a section entitled “Frequently Asked Questions,” which
8 will include any additional information that Morgan Drexen and/or the
9 CFPB believes would be useful to Affected Consumers and/or creditors.

10 a) No later than 15 days from the date of this Order, Morgan
11 Drexen and CFPB shall jointly submit a brief report to this Court that
12 includes a template of the final version of the website.

13 b) Unless otherwise ordered by the Court, Morgan Drexen shall
14 activate this website and make it available to the public within 30 days
15 of the date of this Order.

16 c) This website shall remain active and available to the public for
17 at least 90 days from the date of this Order.

18 2. Within 10 days from the date of this Order, Morgan Drexen is to meet
19 and confer with CFPB and draft a letter to be sent to all Affected
20 Consumers. The letter must include the following information: (1) a brief
21 description of the nature of this action; (2) a summary of the Court’s
22 terminating sanctions order against Morgan Drexen (Doc. 284); (3) a general
23 description of how this Order will affect Morgan Drexen and its
24 relationships with consumers; and (4) an explanation of how the Court’s
25 Orders will affect Affected Consumers for whom Morgan Drexen has
26 negotiated a debt settlement and who are currently engaged in a payment
27 plan pursuant to that debt settlement. If Morgan Drexen is unable to
28 continue to provide Affected Consumers with debt relief services as a result

1 of this Order, the letter must inform the Affected Consumer that Morgan
2 Drexen will no longer be able to provide the Affected Consumer with debt
3 settlement services. Further, the letter must inform the Affected Consumer
4 of the following information: (1) the name of the Affected Consumer's
5 creditor, (2) the terms of any debt relief payment plan that is in place for the
6 Affected Consumer, (3) the date when the next payment is due, and (4)
7 where/to whom payments must be made by the Affected Consumer. The
8 letter also must include the URL address for the website created pursuant to
9 the Court's instructions above. Any additional information that Morgan
10 Drexen and CFPB deem to be of interest to the consumer may be included in
11 the letter. Both Morgan Drexen and CFPB shall sign this letter.

12 a) No later than 15 days from the date of this Order, Morgan
13 Drexen shall submit a brief report to this Court that includes a
14 template of the final version of the letter that will be sent to Affected
15 Consumers.

16 b) Unless otherwise ordered by the Court, Morgan Drexen shall
17 send this letter to each Affected Consumer for whom Morgan Drexen
18 has a mailing address within 30 days of the date of this Order. Also
19 within 30 days of the date of this Order, Morgan Drexen shall send an
20 e-mail to each Affected Consumer for whom Morgan Drexen has an
21 e-mail address, even if a letter is already being sent to that Affected
22 Consumer's mailing address. The e-mail should include the same
23 information found in the letter, and will contain an active and
24 clickable link that will take the Affected Consumer directly to the
25 website created pursuant to the Court's instructions above.

26 3. Within 10 days from the date of this Order, Morgan Drexen is to meet
27 and confer with CFPB and draft a letter to be sent to all creditors with whom
28 Affected Consumers have entered into a debt relief payment plan. The letter

1 must include the following information: (1) a brief description of the nature
2 of this action; (2) a summary of the Court's terminating sanctions order
3 against Morgan Drexen (Doc. 284); (3) a general description of how this
4 Order will effect Morgan Drexen and its relationships with consumers; and
5 (4) an explanation of how the Court's Orders will affect Affected Consumers
6 for whom Morgan Drexen has negotiated a debt settlement and who are
7 currently engaged in a payment plan pursuant to that debt settlement. If
8 Morgan Drexen is unable to continue to provide Affected Consumers with
9 debt relief services as a result of this Order, the letter must inform the
10 creditor that Morgan Drexen will no longer be able to provide Affected
11 Consumers with debt settlement services. Further, the letter must inform the
12 creditor of the following information: (1) the name(s) of the consumer(s)
13 with whom the creditor has entered into debt relief payment plan(s), (2) the
14 terms of any debt relief payment plan(s) that are in place for consumer(s),
15 and (3) the date(s) when the next payment(s) are due. The letter should ask
16 for the creditor's patience in light of the Court's Orders and their effect on
17 Morgan Drexen, urge the creditor to suspend debt collection for a period of
18 90 days to best ensure continued payments by the consumer(s), and request
19 that the creditor reach out to the consumer(s) in some manner with
20 information regarding alternative forms or methods of payment that will
21 allow the consumer(s) to stay current on the debt relief payment plan(s).
22 The letter also must include the URL address for the website created
23 pursuant to the Court's instructions above. Morgan Drexen may send a
24 single letter to each creditor even if that creditor has entered into debt relief
25 payment plans with multiple consumers, so long as the letter includes the
26 information required above for every Affected Consumer on a debt relief
27 payment plan with that creditor. Any additional information that Morgan
28

1 Drexen and CFPB deem to be of interest to the creditor may be included in
2 the letter. Both Morgan Drexen and CFPB shall sign this letter.

3 a) No later than 15 days from the date of this Order, Morgan
4 Drexen shall submit a brief report to this Court that includes a
5 template of the final version of the letter that will be sent to creditors.

6 b) Unless otherwise ordered by the Court, Morgan Drexen shall
7 send this letter to each creditor for whom Morgan Drexen has a
8 mailing address within 30 days of the date of this Order. Also within
9 30 days of the date of this Order, Morgan Drexen shall send an e-mail
10 to each creditor for whom Morgan Drexen has an e-mail address, even
11 if a letter is already being sent to that creditor's mailing address. The
12 e-mail should include the same information found in the letter, and
13 will contain an active and clickable link that will take the creditor
14 directly to the website created pursuant to the Court's instructions
15 above.

16
17 **VIII.**

18 **RETENTION OF JURISDICTION**

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

21
22 **IT IS SO ORDERED.**

23
24 Dated: June 18, 2015



25
26 Hon. Josephine L. Staton
27 United States District Judge
28