



GRANTED

Movant shall serve copies of this ORDER on any pro se parties, pursuant to CRCP 5, and file a certificate of service with the Court within 10 days.

Dated: Jun 22, 2011

Brian Whitney
District Court Judge

DATE OF ORDER INDICATED ON ATTACHMENT

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO</p> <p>1437 Bannock Street Denver, Colorado 80202</p> <hr/> <p>STATE OF COLORADO, <i>ex rel.</i> John W. Suthers, Attorney General,</p> <p>Plaintiff,</p> <p>v.</p> <p>JASON L. LYNN, an individual; and SUPERIOR FINANCIAL GROUP, LLC, a Colorado limited liability company,</p> <p>Defendants.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
	<p>Case No.: 2010cv8182</p> <p>Courtroom: 203</p>
<p>FINAL JUDGMENT AND PERMANENT INJUNCTION AGAINST DEFENDANT JASON L. LYNN</p>	

This Court, having reviewed the entire record in this matter, including the Plaintiff's Motion for Default Judgment against Defendant Jason L. Lynn (DOB 3/10/77) under C.R.C.P. 55(b), C.R.C.P. 37(b)(2)(C), and C.R.C.P. 121, § 1-14, and the supporting affidavits, and being fully advised in the premises,

FINDS and CONCLUDES that an order of Final Judgment and Permanent Injunction against Defendant Jason L. Lynn shall be entered by default judgment in favor of Plaintiff the State of Colorado, *ex rel.* John W. Suthers, Attorney General (the "State"), pursuant to C.R.C.P. 55(b), C.R.C.P. 37(b)(2)(C), and C.R.C.P. 121, § 1-14, in the amount of \$504,946.50, and as follows:

1. This Court has subject matter jurisdiction in the matter presented herein by virtue

of C.R.S. § 6-1-110(1). The Court finds that Defendant Jason L. Lynn was personally served under C.R.C.P. 4(e) on November 5, 2010, and filed an answer on December 2, 2010.

2. Venue is proper in this Court, because at least a portion of the deceptive trade practices were committed in the City and County of Denver, Colorado. Therefore, venue has been considered and is proper in the City and County of Denver pursuant to C.R.S. § 6-1-103 and C.R.C.P. 98(c).

3. Under C.R.C.P. 121, § 1-14, the Court is satisfied that Defendant Jason L. Lynn is not a minor, an incapacitated person, an officer or agency of the state of Colorado, or in the military service.

4. Defendant Jason L. Lynn has failed to comply with two orders from this Court regarding disclosures and discovery. Defendant failed to comply with this Court's order, dated January 20, 2011, requiring him to serve initial disclosures. He also failed to comply with this Court's order, dated May 16, 2011, compelling him to serve disclosures and discovery responses.

5. Defendant's disregard of these orders warrants a default judgment under C.R.C.P. 37(b)(2)(C) and under C.R.C.P. 55(b) for failing to "otherwise defend." The Court specifically finds that, by disobeying two court orders, Defendant has demonstrated willful disobedience of the discovery rules, bad faith consisting of a flagrant disregard of a party's discovery obligations, or culpable fault consisting of at least gross negligence in failing to comply with those obligations. *Kwik Way Stores, Inc. v. Caldwell*, 745 P.2d 672, 678 n.9 (Colo. 1987) (recognizing that a failure to comply with an order compelling discovery generally warrants a default judgment). Rule 37 provides, in relevant part:

(d) Failure of Party to Attend at Own Deposition or Serve Answers to Interrogatories or Respond to Request for Inspection. If a party . . . fails (2) to serve answers or objections to interrogatories submitted pursuant to C.R.C.P. 33, after proper service of the interrogatories; or (3) to serve a written response to a request for inspection submitted pursuant to C.R.C.P. 34, after proper service of the request, the court in which the action is pending on motion may make such orders in regard to the failure as are just, and among others it may take any action authorized by subparagraphs (A), (B), and (C) of subsection (b)(2) of this Rule.

C.R.C.P. 37(d). Subparagraph (C) of subsection (b)(2) of Rule 37, entitled "Failure to Comply with Court Order," authorizes a court to issue:

(C) An order striking out pleadings or parts thereof, or staying further proceedings until the order is obeyed, or dismissing the action or proceeding or any part thereof, or rendering a judgment by default against the disobedient party;

C.R.C.P. 37(b)(2)(C) (emphasis added).

6. Pursuant to C.R.C.P. 54(b), the Court hereby directs entry of final judgment against Defendant Jason L. Lynn based on the Court's express determination that there is no just reason for delay and thus expressly directs entry of judgment against Defendant Jason L. Lynn.

A. Permanent Injunctive Relief

7. This Court is expressly authorized to issue an injunction to enjoin violations of the Colorado Consumer Protection Act and make other equitable orders and judgments:

Whenever the attorney general or a district attorney has cause to believe that a person has engaged in or is engaging in any deceptive trade practice listed in section 6-1-105 or part 7 of this article, the attorney general or district attorney may apply for and obtain, in an action in the appropriate district court of this state, a temporary restraining order or injunction, or both, pursuant to the Colorado rules of civil procedure, prohibiting such person from continuing such practices, or engaging therein, or doing any act in furtherance thereof. The court may make such orders or judgments as may be necessary to prevent the use or employment by such person of any such deceptive trade practice or which may be necessary to completely compensate or restore to the original position of any person injured by means of any such practice or to prevent any unjust enrichment by any person through the use or employment of any deceptive trade practice.

C.R.S. § 6-1-110(1).

8. The State has demonstrated by Complaint and affidavit the following:

- Jason Lynn was at all relevant times the sole member/owner of Superior Financial Group, a Colorado limited liability company.
- Jason Lynn is a foreclosure consultant within the meaning of the Colorado Foreclosure Protection Act, C.R.S. §§ 6-1-1101 – 6-1-1120.
- Jason Lynn formed Superior Financial Group to obtain proceeds of sales from homeowners in foreclosure as part of a foreclosure rescue scheme.
- Jason Lynn located homeowners in foreclosure who had significant equity in their homes and solicited them with offers to save their home from foreclosure sale with a sale-leaseback scheme.

- Jason Lynn, however, did not disclose that the homeowner would transfer at closing all his equity to Superior Financial Group.
- Jason Lynn, moreover, failed to comply with the disclosure and contractual requirements of the Colorado Foreclosure Protection Act, C.R.S. §§ 6-1-1101 – 6-1-1120.
- At closing, Jason Lynn would deceptively obtain an assignment of proceeds from the homeowner as part of the closing documents that would result in the homeowner unknowingly transferring all of his sales proceeds (i.e., equity) to Superior Financial Group.

9. Such conduct violates the Colorado Consumer Protection Act, C.R.S. §§ 6-1-101 – 6-1-1120, in general and the Colorado Foreclosure Protection Act, C.R.S. §§ 6-1-1101 – 6-1-1120, in particular.

10. The Court therefore enters a permanent injunction order pursuant to C.R.S. § 6-1-110(1) against Defendant Jason L. Lynn, and any other persons or entities under his control or in active concert or participation with him who receive notice of this Court’s order, that permanently enjoins Defendant Jason L. Lynn from:

- (1) Engaging or otherwise participating in mortgage loan origination, mortgage brokerage activity, mortgage assistance, mortgage relief, foreclosure consulting, loan modifications, real estate activity, real estate sales, appraisals, title services, underwriting, lending, or loan or forensic audits in any capacity;
- (2) Soliciting, advertising, selling, marketing, displaying, offering, performing, or accepting payment for, services, including lead generation and product sales, relating to mortgage loan origination, mortgage brokerage activity, mortgage assistance, mortgage relief, foreclosure consulting, loan modifications, real estate activity, real estate sales, appraisals, title services, underwriting, lending, or loan or forensic audits; and
- (3) Publishing, distributing or disseminating any information, including written, oral, or video, to accept or receive, directly or indirectly, payment relating to mortgage loan origination, mortgage brokerage activity, mortgage assistance, mortgage relief, foreclosure consulting, loan modifications, real estate activity, real estate sales, appraisals, title services, underwriting, lending, or loan or forensic audits.

B. Monetary Relief: Fine, penalty, and forfeiture payable to and for the benefit of a governmental unit

11. The Colorado Consumer Protection Act's broad legislative purpose is to "provide prompt, economical, and readily available remedies against consumer fraud." *Western Food Plan, Inc. v. District Court in and for the City and County of Denver*, 598 P.2d 1038, 1041 (Colo. 1979). The act provides that this Court may make such judgments as may be necessary to "completely compensate or restore to the original position of any person injured by means" of a deceptive trade practice. C.R.S. § 6-1-110(1).

12. Accordingly, the Court enters final judgment against Defendant Jason L. Lynn and in favor of the State for **\$504,946.50** pursuant to C.R.S. § 6-1-110(1), which shall be payable to and for the benefit of the State of Colorado, based on the unlawful proceed assignments that he obtained through transfers by consumers at or around closing to Superior Financial Group for the following real estate transactions identified by the State's investigator in his affidavit:

6/26/2006: 4790 St. Paul Street, Denver, Colorado 80216

- \$55,941.95 assignment to Superior Financial Group

7/31/2006: 506 Entrada Drive, Golden, Colorado 80401

- \$89,978.82 assignment to Superior Financial Group

8/31/2006: 5875 S. Moore Street, Littleton, Colorado 80127

- \$ 39,567.83 assignment to Superior Financial Group

9/01/2006: 4950 W. Ohio Avenue, Denver, Colorado 80219

- \$47,069.28 assignment to Superior Financial Group

10/13/2006: 3277 Niagara Street, Denver, Colorado 80207

- \$47,708.30 assignment to Superior Financial Group

11/16/2006: 3060 Oneida Street, Denver, Colorado 80207

- \$106,994.49 assignment to Superior Financial Group

1/29/2007: 3333 South Glencoe Street, Denver, CO 80222

- \$47,944.95 assignment to Superior Financial Group

4/24/2007: 1603 Minos Court, Lafayette, CO 80026

-\$69,740.88 assignment to Superior Financial Group

See Exhibit 3 to the State's Motion for Default Judgment, Affidavit of Investigator Jack Wegert, and attached documents from title companies.

13. The Court finds that under C.R.C.P. 55(b) a hearing on damages is unnecessary, because the amount sought under C.R.S. § 6-1-110(1) from Defendant Jason L. Lynn—the proceed assignments to his company—is liquidated or an amount calculable by mathematical processes alone. *Colorado Dept. of Public Health and Environment v. Caulk*, 969 P.2d 804, 811 (Colo. App. 1998) (citing *Orebaugh v. Doskocil*, 145 Colo. 484, 359 P.2d 671 (1961); *Crow-Watson No. 8 v. Miranda*, 736 P.2d 1260 (Colo. App. 1986)). “No hearing is required on damages if the damages claimed are liquidated or in an amount calculable by mathematical processes alone.” *Id.* at 811-812 (citing *Kwik Way Stores, Inc.*, 745 P.2d 672 (Colo. 1987)).

This document constitutes a ruling of the court and should be treated as such.

Court: CO Denver County District Court 2nd JD

Judge: Brian R Whitney

File & Serve

Transaction ID: 38245617

Current Date: Jun 22, 2011

Case Number: 2010CV8182

Case Name: ST OF COLO vs. LYNN, JASON LAWRENCE et al

Court Authorizer: Brian R Whitney

/s/ Judge Brian R Whitney