

LAW OFFICE OF CHRISTOPHER M. MULHEARN, INC.

COUNSELLOR AT LAW

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October 2, 2020

To Whom It May Concern

RE: *FEDERAL TRADE COMMISSION v. PONTE INVESTMENTS, LLC, et al.*
Case No.: 1:20-cv-00177-JJM-PAS

Dear Sir or Madam:

Kindly be advised that the undersigned represents the interests of Ponte Investments, LLC ("PI") with regard to the above-identified now disposed of United States District Court for the District of Rhode Island proceeding.

As you may be aware, PI was named as a party defendant in the above legal action initiated by the Federal Trade Commission ("FTC").

The genesis of the FTC's Complaint as against PI was PI's endeavored participation in the Paycheck Protection Program. In or about April, 2020, PI, by and through its website, which, at the time, was under "SBA Loan Program.com"¹ was accepting customer applications for the Paycheck Protection Program as a loan originator, and not as a direct lender. PI had existing lending relationships with direct lenders of the SBA that it was working with. At all times relevant thereto, PI's website clearly indicated and disclosed that SBA Loan Program was a division of PI, and, further, was not affiliated with the United States Small Business Administration ("SBA").

PI was neither paid nor receive any fee from any customer(s) making application for a Paycheck Protection Program loan through the PI website.

Contemporaneous therewith, PI was, in fact, making application with the SBA to become a direct lender thereof solely for the Paycheck Protection Program. In fact, on or about April 10,

¹ PI, which was organized in or about 2011, had been using the business trade name "SBA Loan Program.com" since 2015 without incident or complaint. Said business trade name is duly registered with the Rhode Island Secretary of State, as PI is a Rhode Island limited liability company. Additionally, PI also owns the domain "www.SBA Loan Program.com".

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2010, PI was advised, through an intermediary, that the SBA was looking favorably upon PI's application with the SBA, and that approval on the same seemed near. As a result thereof, PI inadvertently "jumped the gun" and posted an announcement regarding the same on its website that same afternoon. Said posting persisted for merely two (2) hours, or so, when it became aware of the same, and PI immediately removed the announcement from its website in its entirety. (Of note, during this two (2) hour, or so, period PI received only two (2) inquiries relative to the Paycheck Protection Program. In both instances, PI advised the inquiring parties that it was only a loan originator.)

Despite PI's prompt remedial action, on that same date it did receive a "cease and desist" notification from the SBA regarding the announcement. PI responded immediately confirming its compliance with the government directive.

Notwithstanding, on Friday, April 17, 2020, the FTC filed its Complaint in the Rhode Island Federal Court as against PI alleging misrepresentation arising out of PI's foray into the Paycheck Protection Program.

Insofar as PI believed that the allegations that formed the basis the FTC Complaint lacked merit, and rather than engage in a protracted "legal battle" aimed at proving its contention in this regard, PI instead negotiated an interim measure with the FTC, which was entered by the court on or about April 20, 2020.

The Stipulated Preliminary Order is noteworthy as it was without any admission of wrongdoing or liability by PI, and, further, was without any finding of fact or violation of law adverse to PI by the Federal Court.

Simply, pursuant to the Stipulated Preliminary Order, PI agreed not to engage in certain alleged conduct that it otherwise was not engaged in to begin with.

Thereafter, PI and the FTC negotiated, and agreed upon the Stipulated Final Order intended to fully and finally conclude the instant litigation, which is enclosed herewith. The Stipulated Final Order was entered by the Federal Court on September 25, 2020.

Importantly, once again, the enclosed was arrived at with any admission of wrongdoing or liability by PI, or without any finding of fact or violation of law adverse to PI by the Federal Court. Of equal importance, and in a fairly unusual disposition, the FTC assessed no monetary fine or penalty as against PI.

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As before, the Stipulated Final Order merely precludes PI from engaging in conduct in which it otherwise does not, and did not, engage in.

Specifically, PI agreed that it would not misrepresent itself or assist others in misrepresenting that PI is an SBA direct lender (which it is not and does not), or that it is otherwise affiliated with, endorsed by or sponsored by the SBA or United States government. Further, PI agreed that it would not engage in a misrepresentation with customers as an SBA loan originator. None of these "restrictions" impact PI's continued business operations as they were not activities that PI was otherwise engaging in.

Even more, although it was not a requirement of the Stipulated Final Order, so as to avoid any future confusion regarding PI and any relation to the SBA, PI voluntarily "surrendered" the use of the business trade name "SBA Loan Program.com", and removed any reference thereto from its website, or other materials or platforms that would otherwise be available to the public.

In conclusion, the above-referenced legal action is now at an end once and for all, and PI has emerged therefrom continuing its business operations unabated.

Should you have any questions, or require any additional information regarding this matter, please do not hesitate to contact the undersigned.

Thank you.

Sincerely,



Christopher M. Mulhearn

CMM:ljb
Enclosure