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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

BANK OF AMERICA CORPORATION, a Delaware corporation,

Plaintiff,

v.

U.S. LOAN AUDITORS, LLC, a California limited liability company;  
SHANE BARKER, an individual;  
JAMES SANDISON, an individual; and  
DOES 1-10,

Defendants.

Case No. 2:10-CV-01329-JAM-JFM

**STIPULATED PERMANENT  
INJUNCTION AND CONSENT  
JUDGMENT**

1 Plaintiff Bank of America Corporation (“BOA”) and Defendants U.S. Loan  
2 Auditors, LLC (“U.S. Loan Auditors”), Shane Barker and James Sandison, by and  
3 through their counsel, hereby jointly request a Consent Judgment and Permanent  
4 Injunction as follows:

5 **STIPULATED FACTS**

6 1. Plaintiff BOA commenced this action on May 28, 2010, alleging claims  
7 against Defendants for (1) False Advertising under the Lanham Act; (2) False  
8 Advertising under California Business & Professions Code §17500; and (3) Unfair  
9 Competition under California Business & Professions Code §17200. Defendants  
10 denied and continue to deny BOA’s allegations.

11 2. This action was commenced by Plaintiff against Defendants based upon  
12 allegedly false statements that were made by Defendants and/or Defendants’ agents  
13 or representatives in connection with Defendants’ commercial solicitation of  
14 customers for its loan auditing services. Defendants deny that the statements were  
15 false.

16 3. Plaintiff immediately moved for a preliminary injunction, and this  
17 Court, by Order filed August 12, 2010, enjoined and restrained Defendant U.S. Loan  
18 Auditors, and each of its officers, agents, employees, representatives, and all persons  
19 acting in concert or participating with them from engaging in or performing directly  
20 or indirectly any and all of the following acts:

21 a. Engaging in false or misleading advertising with respect to its loan  
22 audit and related legal services and/or violating Lanham Act § 43(a);

23 b. Publishing commercial advertisements or solicitations falsely stating  
24 or suggesting that BOA (and/or its affiliates) has engaged in predatory lending  
25 practices, has violated federal law in connection with the loans it has originated, or  
26 is the subject of a “predatory lending investigation”; and

27 c. Using any of Plaintiff’s marks in its commercial advertisements  
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1 and/or solicitations.

2 4. The parties to this Stipulated Judgment agree and stipulate that this  
3 Court is the proper court of venue and jurisdiction for the action contained in  
4 Plaintiff's Complaint, and that jurisdiction lies in this Court pursuant to 28 U.S.C.  
5 §1331 (federal question), 15 U.S.C. §1121 (Lanham Act claims) and 28 U.S.C.  
6 §1367 .

7 5. Defendants U.S. Loan Auditors, Barker and Sandison do not admit  
8 wrong-doing or liability but, to avoid further litigation costs, enter into this  
9 Stipulated Judgment and Permanent Injunction freely and without coercion, and  
10 acknowledge that they are willing to and prepared to abide by its terms.

11 **JUDGMENT AND PERMANENT INJUNCTION**

12 6. This Court has jurisdiction over the subject matter hereof and over the  
13 Plaintiff and Defendants.

14 7. The provisions of this Stipulated Permanent Injunction shall be  
15 applicable to Defendants Barker, Sandison, and U.S. Loan Auditors, as well as its  
16 respective owners, members, partners, principals, predecessors and successors, and  
17 their officers, directors, shareholders, owners, employees, agents, representatives,  
18 parents, subsidiaries, successors and assigns.

19 8. Defendants hereby agree to be permanently enjoined from:

20 a. Publishing, mailing, or ever using again the solicitation attached to  
21 the Complaint in this matter as Exhibit A;

22 b. Engaging directly, through employees responsible for U. S. Loan  
23 Auditors' marketing, or indirectly through any independent contractor, advertising  
24 agency, or third party in the publishing of commercial advertising or marketing  
25 which: (1) contains false or misleading factual representations with knowledge of  
26 the falsity or misleading nature thereof; or, (2) which is presented in a form which  
27 implies or suggests that such advertising is a communication from or on behalf of  
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1 any government agency;

2 c. Publishing commercial advertisements or solicitations that name  
3 BOA (and/or its affiliates Merrill Lynch Credit Corporation, Bank of America,  
4 N.A., First Franklin Loan Services and Countrywide Home Loans, Inc.) and state or  
5 suggest without any basis in fact that the named entities have: (1) engaged in  
6 “predatory lending practices;” (2) violated federal law in connection with the loans  
7 that they have originated; or, (3) are the subject of a predatory lending investigation  
8 by any government entity; and

9 d. Using in Defendants’ commercial advertisements and/or  
10 solicitations any of Plaintiff’s trademarks or service marks, including without  
11 limitation Plaintiff’s trademarked names, symbols or emblems and/or those of  
12 Plaintiff’s affiliates.

13 **COSTS AND ATTORNEYS’ FEES**

14 9. All parties shall bear their own attorneys’ fees and costs in connection  
15 with this action.

16 **RETENTION OF JURISDICTION**

17 10. The Court shall retain jurisdiction over this action for all purposes.  
18

19 WHEREFORE, the parties jointly request that the Court grant this Stipulation for  
20 Consent Judgment and Permanent Injunction and issue an order regarding same.

21  
22 Dated: December \_\_, 2010

MURPHY, CAMPBELL, GUTHRIE &  
ALLISTON

23  
24 By: \_\_\_\_\_  
25 MARK A. CAMPBELL (SBN 93595)  
26 Attorneys for Defendants  
27  
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1 Dated: December \_\_, 2010

LOEB & LOEB LLP

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3 By: \_\_\_\_\_  
4 Mark D. Campbell (SBN 180528)  
5 Attorneys for Plaintiff

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1 **ORDER**

2 Upon consideration of the Stipulation for Consent Judgment and Permanent  
3 Injunction filed by Plaintiff Bank of America Corporation (“BOA”) and  
4 Defendants U.S. Loan Auditors, LLC (“U.S. Loan Auditors”), Shane Barker and  
5 James Sandison, it is hereby ordered, judged and decreed as follows:

6 1. The Stipulation for Consent Judgment and Permanent Injunction is  
7 GRANTED.

8 2. Judgment is entered against Defendants and in favor of Plaintiff.

9 3. Defendants are hereby permanently enjoined and restrained from:

10 a. Publishing, mailing, or ever again using the solicitation attached  
11 to the Complaint in this matter as Exhibit A;

12 b. Engaging directly or through employees responsible for U. S.  
13 Loan Auditors’ marketing, or indirectly through any independent contractor,  
14 advertising agency, or third party, in the publishing of commercial advertising or  
15 marketing which: (1) contains false or misleading factual representations with  
16 knowledge of the falsity or misleading nature thereof; or, (2) which is presented in a  
17 form which implies or suggests that such advertising is a communication from or on  
18 behalf of any government agency;

19 c. Publishing commercial advertisements or solicitations that name  
20 BOA (and/or its affiliates Merrill Lynch Credit Corporation, Bank of America,  
21 N.A., First Franklin Loan Services and Countrywide Home Loans, Inc.) and state or  
22 suggest without any basis in fact that the named entities have: (1) engaged in  
23 “predatory lending practices;” (2) violated federal law in connection with the loans  
24 that they have originated; or, (3) are the subject of a predatory lending investigation  
25 by any government entity; and

26 d. Using in Defendants’ commercial advertisements and/or  
27 solicitations any of Plaintiff’s trademarks or service marks, including without  
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1 limitation Plaintiff's trademarked names, symbols or emblems and/or those of  
2 Plaintiff's affiliates.

3 IT IS FURTHER ORDERED, JUDGED AND DECREED that the parties  
4 shall bear their own attorneys' fees and costs in connection with this action.

5 IT IS FURTHER ORDERED, JUDGED AND DECREED that the Court  
6 shall retain jurisdiction over this action for all purposes.

7 Dated: December 2, 2010

8 /s/ John A. Mendez  
9 Hon. John A. Mendez  
10 United States District Judge  
11 United States District Court, Eastern  
12 District of California  
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