

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

Case No. 07-61152-CIV-HUCK/O'SULLIVAN

_____)
FEDERAL TRADE COMMISSION,)
)
Plaintiff,)
)
v.)
)
INTEGRITY MARKETING TEAM, INC.,)
a Florida Corporation doing)
business as Home Business System;)
)
BYRON PETERSON, an individual doing)
business as Home Business System;)
and)
)
MIN SUNG KIM, an individual doing business)
as Home Business System, and as an)
officer of Integrity Marketing Team, Inc.;)
)
Defendants.)
_____)

**STIPULATED FINAL JUDGMENT AND ORDER FOR PERMANENT
INJUNCTION AND OTHER EQUITABLE RELIEF AGAINST DEFENDANT BYRON
PETERSON**

This matter comes before the Court on stipulation of Plaintiff, Federal Trade Commission (“FTC or Commission”), and Defendant Byron Peterson (“Defendant Peterson”). On August 14, 2007, the Commission filed a complaint for a permanent injunction and other equitable relief in this matter pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §53(b). The FTC charged Defendant Peterson with engaging in deceptive acts or practices in connection with the marketing and sale of work-at-home envelope stuffing opportunities, in violation of Section 5 of the FTC Act, 15 U.S.C. §45. On August 15, 2007, the Court entered a

Temporary Restraining Order and asset freeze against Defendant Peterson. On October 10, 2007, the Court entered a Stipulated Preliminary Injunction against Defendant Peterson.

The Commission and Defendant Peterson hereby stipulate to the entry of, and request the Court to enter, this Stipulated Final Judgment and Order for Permanent Injunction and Other Equitable Relief Against Defendant Byron Peterson ("Final Order" or "Order").

It is therefore ORDERED, ADJUDGED, AND DECREED:

FINDINGS

1. The Court has jurisdiction of the subject matter of this case and the parties hereto.
2. Venue in the United States District Court for the Southern District of Florida is proper under 28 U.S.C. § 1391(b) and (c) and 15 U.S.C. § 53(b).
3. The activities of Defendant Peterson are in or affecting commerce, as defined in the FTC Act, 15 U.S.C. §44.
4. The Complaint states a claim upon which relief may be granted against Defendant Peterson.
5. Defendant Peterson waives all rights to seek judicial review or otherwise challenge or contest the validity of this Order. Defendant Peterson further waives any claim under the Equal Access to Justice Act, 28 U.S.C. §2412, *amended by* Pub. L. 104-121, 110 Stat. 847, 863-64 (1996).
6. Defendant Peterson waives and releases any claim he may have against the Commission and its employees, representatives or agents.
7. Defendant Peterson enters into this Order freely and without coercion and acknowledge that he has read, understands, and is prepared to abide by the

provisions of this Order.

8. This Order is in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law.
9. Entry of this Order is in the public interest.

DEFINITIONS

1. **“Assisting Others”** means knowingly providing any of the following goods or services to another business venture: (A) performing customer service functions, including, but not limited to, receiving or responding to consumer complaints; (B) formulating or providing, or arranging for the formulation or provision of, any marketing material; (C) providing names of, or assisting in the generation of, potential customers; (D) hiring, recruiting or training personnel; (E) advising or acting as a consultant to others on the commencement or management of a business venture; or (F) performing marketing services of any kind.

2. **“Business Venture”** means any written or oral business arrangement, however denominated, that is covered by the Franchise Rule or the Business Opportunity Rule, or that consists of the payment of any consideration in exchange for:

- A. the right or means to offer, sell, or distribute goods or services (regardless of whether identified by a trademark, service mark, trade name, advertising, or other commercial symbol); and
 - B. more than nominal assistance to any person or entity in connection with or incident to the establishment, maintenance, or operation of a new business or the entry by an existing business into a new line or type of business.
3. **“Defendant”** means Defendant Byron Peterson.

4. **“Employer”** means any individual or entity for whom Defendant Peterson performs services as an employee, consultant, or independent contractor.

5. **“Employment”** means the performance of services as an employee, consultant, or independent contractor.

4. **“Material”** means likely to affect a person’s choice of, or conduct regarding, goods or services.

5. **“Work-at-Home Opportunity”** means any program, plan, product, or service represented to enable a participant or purchaser thereof to earn money exclusively or primarily by working at home.

ORDER

I. PROHIBITED BUSINESS ACTIVITIES

IT IS THEREFORE ORDERED that, in connection with the advertising, promotion, offering for sale, or sale of any goods or services, including but not limited to offers for sale of any work-at-home opportunity, Defendant Peterson, as well as his agents, employees, officers, corporations, successors, assigns, and all other persons or entities in active concert or participation with him who receive actual notice of this Order by personal service, facsimile, or otherwise, whether acting directly or through any corporation, subsidiary, division, or other entity, are hereby restrained and enjoined from making or assisting others in making, expressly or by implication, any false or misleading statement or misrepresentation of material fact, including but not limited to:

- A. That consumers are likely to earn a substantial amount of money;
- B. The amount of earnings, income, sales volume, or profits that a consumer is likely

to achieve;

C. The amount of earnings, income, sales volume, or profits that consumers have achieved in the past;

D. That consumers who participate in Defendants' envelope stuffing opportunity will be paid for each envelope they stuff;

E. The nature of any business venture offered or sold; and

F. Any material term, condition, or limitation of the transaction or about the use of any offered good or service.

II. MONETARY JUDGMENT

IT IS FURTHER ORDERED that judgment in the amount of \$1,280,612 (one million two-hundred eighty thousand six hundred twelve dollars) is hereby entered against Defendant Peterson, as equitable monetary relief, in favor of the Commission; *provided*, that this judgment amount shall be suspended subject to the conditions set forth in Paragraph III of this order.

III. RIGHT TO REOPEN

IT IS FURTHER ORDERED that:

A. The Commission's agreement to, and the Court's approval of, this Order is expressly premised upon the truthfulness, accuracy, and completeness of the financial condition of Defendant Peterson, as represented in his sworn financial statements dated February 22, 2008 and documents provided to the Commission in support thereof, as well as the truthfulness, accuracy, and completeness of Defendant Peterson's sworn deposition testimony on February 22, 2008, all of which include material information upon which the Commission relied in negotiating and consenting to this Order.

B. If, upon motion by the Commission, the Court finds that Defendant Peterson failed to disclose any material asset, or made any other material misrepresentation or omitted material information in the above-referenced financial statements and information the suspension of the monetary judgment shall be vacated, and the entire \$1,280,612 (one million two-hundred eighty thousand six hundred twelve dollars) shall immediately become due, less any payments or transfers already made to the FTC, plus interest from the date of the entry of this Order pursuant to 28 U.S.C. §1961.

C. All funds paid pursuant to this Order shall be deposited into a fund administered by the Commission or its agent to be used for equitable relief, including but not limited to consumer redress and any attendant expenses for the administration of any redress funds. In the event that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to the Defendant's practices alleged in the Complaint. Any funds not used for such equitable relief shall be deposited to the United States Treasury as disgorgement. Defendant shall have no right to contest the manner of distribution or other disposition of funds chosen by the Commission. The Commission in its sole discretion may use a designated agent to administer consumer redress.

D. Defendant agrees that the facts as alleged in the complaint filed in this action shall be taken as true, without further proof, in any subsequent litigation filed by or on behalf of the FTC to collect any unpaid amount or otherwise enforce its rights pursuant to this Order, including a nondischargeability complaint filed in any bankruptcy case.

E. Any proceedings instituted under this Paragraph III are in addition to, and not in

lieu of, any other civil or criminal remedies as may be provided by law, including any other proceedings that the FTC may initiate to enforce this Final Order.

IV. CUSTOMER LISTS

IT IS FURTHER ORDERED that Defendant Peterson, and his officers, agents, servants, employees, and attorneys, and all other persons or entities in active concert or participation with him who receives actual notice of this Order by personal service, facsimile, or otherwise, are permanently restrained and enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, credit card number, bank account number, e-mail address, or other identifying information of any person who paid any money to any defendant, at any time prior to entry of this order, in connection with the marketing and sale of Defendant Peterson's work-at-home enveloping stuffing opportunity. *Provided*, however, that Defendant Peterson may disclose such identifying information to a law enforcement agency or as required by any law, regulation, or court order.

V. COOPERATION WITH FTC COUNSEL

IT IS FURTHER ORDERED that Defendant Peterson shall, in connection with this action or any subsequent investigations related to or associated with the transactions or the occurrences that are the subject of the FTC's Complaint, cooperate in good faith with the FTC and appear at such places and times as the FTC shall reasonably request, after written notice, for interviews, conferences, pretrial discovery, review of documents, and for such other matters as may be reasonably requested by the FTC. If requested in writing by the FTC, Defendant Peterson shall appear and provide truthful testimony in any trial, deposition, or other proceeding related to or associated with the transactions or the occurrences that are the subject of the Complaint,

without the service of a subpoena.

VI. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring and investigating compliance with any provision of this Order,

A. Within ten (10) days of receipt of written notice from a representative of the Commission, Defendant Peterson shall submit additional written reports, sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and/or provide entry during normal business hours to any business location in Defendant Peterson's possession or direct or indirect control to inspect the business operation;

B. In addition, the Commission is authorized to monitor compliance with this Order by all other lawful means, including but not limited to the following:

1. Obtaining discovery from any person, without further leave of the Court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45;
2. Posing as consumers and suppliers to Defendant Peterson, and his employees, or any entity managed or controlled in whole or in part by Defendant Peterson, without the necessity of identification or prior notice; and

C. Defendant Peterson shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to any conduct subject to this Order. The person interviewed may have counsel present.

Provided, however, that nothing in this Order shall limit the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to

obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

VII. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that, in order that compliance with the provisions of this Order may be monitored:

- A. For a period of five (5) years from the date of entry of this Order,
 1. Defendant Peterson shall notify the Commission of the following:
 - a. Any changes in residence, mailing addresses, and telephone numbers of Defendant Peterson, within ten (10) days of the date of such change;
 - b. Any changes in his employment status (including self-employment) of Defendant Peterson, and any change in the ownership of Defendant Peterson of any business entity within ten (10) days of the date of such change. Such notice shall include the name and address of each business that Defendant Peterson is affiliated with, employed by, creates or forms, or performs services for; a statement of the nature of the business; and a statement of Defendant Peterson's duties and responsibilities in connection with the business or employment; and
 - c. Any changes in Defendant Peterson's name or use of any aliases or fictitious names; and
 2. Defendant Peterson shall notify the Commission of any changes in corporate structure of any business entity that Defendant Peterson directly or indirectly

controls, or has an ownership interest in, that may affect compliance obligations arising under this Order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor entity; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; the filing of a bankruptcy petition; or a change in the corporate name or address, at least thirty (30) days prior to such change, *provided* that, with respect to any proposed change in the corporation about which Defendant Peterson learns less than thirty (30) days prior to the date such action is to take place, Defendant Peterson shall notify the Commission as soon as is practicable after obtaining such knowledge.

B. One hundred eighty (180) days after the date of entry of this Order, Defendant Peterson shall provide a written report to the FTC, sworn to under penalty of perjury, setting forth in detail the manner and form in which he has complied and is complying with this Order. This report shall include, but not be limited to:

1. Defendant Peterson's then-current residence address, mailing addresses, and telephone numbers;
2. Defendant Peterson's then-current employment and business addresses and telephone numbers, a description of the business activities of each such employer or business, and the title and responsibilities of Defendant Peterson for each such employer or business; and
3. Any other changes required to be reported under subparagraph A of this

Section.

C. Upon written request by a representative of the Commission, Defendant Peterson shall submit additional written reports (under oath, if requested) and produce documents on fifteen (15) days' notice with respect to any conduct subject to this Order.

D. For the purposes of this Order, Defendant Peterson shall, unless otherwise directed by the Commission's authorized representatives, mail all written notifications to the Commission to:

Associate Director
Division of Enforcement
Federal Trade Commission
601 New Jersey Avenue
Washington, D.C. 20580
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E. For purposes of the compliance reporting and monitoring required by this Order, the Commission is authorized to communicate directly with Defendant Peterson.

VIII. RECORD KEEPING PROVISIONS

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry of this Order, Defendant Peterson, in connection with those businesses where Defendant Peterson is the majority owner or otherwise controls the business, and their agents, employees, officers, corporations, successors, assigns, and those persons in active concert or participation with him who receive actual notice of this Order by personal service, facsimile, or otherwise, whether acting directly or through any corporation, subsidiary, division, or other entity, are hereby restrained and enjoined from failing to create and retain the following records:

A. Accounting records that reflect the cost of goods or services sold, revenues

