

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	Case No. 13cv6420
)	
v.)	Judge James B. Zagel
)	
AFD ADVISORS, LLC, a Wisconsin limited liability company, also d/b/a AFD MEDICAL ADVISORS, <i>et al.</i> ,)	Magistrate Judge Maria Valdez
)	
Defendants.)	

**STIPULATED FINAL JUDGMENT AND ORDER FOR
PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF
AS TO DEFENDANTS 9210-7838 QUÉBEC INC. AND FAWAZ SEBAI**

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), filed its Complaint for Permanent Injunction and Other Equitable Relief (“Complaint”) in this matter, pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108. The Commission and Defendants 9210-7838 Québec Inc. and Fawaz Sebai (hereinafter referred to as “Stipulating Defendants”) stipulate to the entry of this Stipulated Final Judgment and Order for Permanent Injunction and Other Equitable Relief as to Defendants 9210-7838 Québec Inc. and Fawaz Sebai (“Order”) to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.

2. The Complaint charges that Stipulating Defendants participated in deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, and in deceptive and abusive telemarketing acts or practices in violation of the FTC's Telemarketing Sales Rule, 16 C.F.R. Part 310, in connection with the advertising, marketing, promoting, offering for sale, and sale of medical discount plans.

3. Stipulating Defendants neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Stipulating Defendants admit the facts necessary to establish jurisdiction.

4. Stipulating Defendants waive any claim that they may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agree to bear their own costs and attorney fees.

5. Stipulating Defendants waive all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

For purposes of this Order, the following definitions apply:

1. "Corporate Defendants" means AFD Advisors, LLC, also doing business as AFD Medical Advisors; AMG Associates, LLC, also doing business as AMG Medical and AMG Medical Associates; Park 295 Corp.; CAL Consulting, LLC, also doing business as Clinacall; 9262-2182 Québec Inc.; and 9210-7838 Québec Inc., and their successors and assigns, as well as any fictitious business entities or business names created or used by these entities, or any of them.

2. "Defendants" means all of the Individual Defendants and the Corporate Defendants, individually, collectively, or in any combination.

3. “Healthcare-Related Benefits or Discount Programs” includes any program, membership, card, product, or other good or service, which is not insurance, that purports to offer discounts, savings, or benefits on healthcare, or access to such discounts, savings, or benefits.

4. “Individual Defendants” means Aaron F. Dupont; Charles A. Lamborn, III; Stephane Scebbba; and Fawaz Sebai, also known as Frank Sebag, and by whatever other names each may be known.

5. “Insurance” means any good or service that (a) has the effect of transferring or spreading risk; (b) is an integral part of the policy relationship between the insurer and the insured; and (c) is limited to entities within the insurance industry.

6. “Person” means a natural person, an organization or other legal entity, including a corporation, partnership, sole proprietorship, limited liability company, association, cooperative, or any other group or combination acting as an entity.

7. “Stipulating Defendants” means 9210-7838 Québec Inc. (“9210-7838”), and its successors and assigns, and Fawaz Sebai, also known as Frank Sebag (“Sebai”), and by whatever other names each may be known.

8. “Telemarketing” means any plan, program, or campaign which is conducted to induce the purchase of goods or services by use of one or more telephones, and which involves a telephone call, whether or not covered by the Telemarketing Sales Rule.

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ORDER

I.

BAN ON TELEMARKETING

IT IS ORDERED that Stipulating Defendants are permanently restrained and enjoined from participating in Telemarketing, whether directly or through an intermediary, including by consulting, brokering, planning, investing, or advising.

II.

BAN ON HEALTHCARE-RELATED
BENEFITS OR DISCOUNT PROGRAMS

IT IS FURTHER ORDERED that Stipulating Defendants are permanently restrained and enjoined from advertising, marketing, promoting, offering for sale, or selling, or assisting in the advertising, marketing, promoting, offering for sale, or selling, of any Healthcare-Related Benefits or Discount Programs.

III.

PROHIBITED MISREPRESENTATIONS

IT IS FURTHER ORDERED that Stipulating Defendants, Stipulating Defendants' officers, agents, servants, employees, and attorneys, and all other Persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the advertising, marketing, promoting, offering for sale, or selling of any good or service, are permanently restrained and enjoined from misrepresenting, or assisting others in misrepresenting, expressly or by implication, any material fact, including, but not limited to:

- A. That Defendants are calling from, calling on behalf of, or are otherwise affiliated with, a government program such as Medicare or Social Security, the consumer's medical insurance provider, or any other Person or government entity;
- B. That purchase of the good or service will result in substantial savings to the consumer;
- C. That the good or service is affiliated with, or endorsed or sponsored by, any Person or government entity;
- D. That the good or service is Insurance;
- E. Any material aspect of the nature or terms of any refund, cancellation, exchange, or repurchase policy for the good or service;
- F. The total costs to purchase, receive, or use, or the quantity of, the good or service;
- G. Any material restriction, limitation, or condition on purchasing, receiving, or using the good or service; or
- H. Any material aspect of the performance, efficacy, nature, or central characteristics of the good or service.

IV.

MONETARY JUDGMENT AND PARTIAL SUSPENSION

IT IS FURTHER ORDERED that:

- A. Judgment in the amount of one million, ninety-one thousand, four-hundred fifty dollars and sixty-eight cents (US\$1,091,450.68) is entered in favor of the Commission against Stipulating Defendants, jointly and severally, as equitable monetary relief.
- B. In partial satisfaction of the judgment against Stipulating Defendants, within seven (7) days of the date of entry of this Order, Defendant Sebai shall take all steps necessary to

reduce to cash all assets in Account No. xxxx310A held at TD Waterhouse in the name of, or for the benefit of, Defendant Sebai, including, but not limited to, the shares of stock identified in Item 10 of the Financial Statement of Individual Defendant Fawaz Sebai signed on September 19, 2013; and then transfer that cash to the Commission by wire transfer in accordance with instructions previously provided by a representative of the Commission. Upon such payment, the remainder of the judgment as to Stipulating Defendants is suspended, subject to the Subsections below.

C. The Commission's agreement to the suspension of part of the judgment is expressly premised upon the truthfulness, accuracy, and completeness of Stipulating Defendants' sworn financial statements and related documents (collectively, "financial representations") submitted to the Commission, namely:

1. The Financial Statement of Individual Defendant Fawaz Sebai signed on September 19, 2013, and the financial representations of Defendant 9210-7838 contained therein; and

2. The additional information submitted by e-mail from Stipulating Defendants' counsel, Andrew N. Cove, to Commission counsel, William J. Hodor, dated April 2, 2014.

D. The suspension of the judgment will be lifted as to Stipulating Defendants if, upon motion by the Commission, the Court finds that either Stipulating Defendant failed to disclose any material asset, materially misstated the value of any asset, or made any other material misstatement or omission in the financial representations identified above.

E. If the suspension of the judgment is lifted, the judgment becomes immediately due as to Stipulating Defendants in the amount specified in Subsection A above (which the

parties stipulate only for purposes of this Section represents the consumer injury caused by Stipulating Defendants' acts and practices alleged in the Complaint), less any payment previously made pursuant to this Section, plus interest computed from the date of entry of this Order.

F. Stipulating Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

G. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission, including in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.

H. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

I. Stipulating Defendants acknowledge that their Taxpayer Identification Numbers (Social Security Number, Employer Identification Number, or Social Insurance Number), which Stipulating Defendants previously submitted to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

J. All money paid to the Commission pursuant to this Order may be deposited into a fund administered by the Commission or its designee to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the Commission decides that direct redress to consumers is wholly or partially

impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the Complaint. Any money not used for such equitable relief is to be deposited to the U.S. Treasury as disgorgement. Stipulating Defendants have no right to challenge any actions the Commission or its representatives may take pursuant to this Subsection.

K. The asset freeze imposed by (1) Section II of the Preliminary Injunction With Asset Freeze and Other Equitable Relief as to Defendants AFD Advisors, LLC; AMG Associates, LLC; Park 295 Corp.; CAL Consulting, LLC; 9262-2182 Québec Inc.; 9210-7838 Québec Inc.; and Charles A. Lamborn, III, entered by the Court on October 3, 2013; and (2) Section II of the Stipulated Preliminary Injunction With Asset Freeze and Other Equitable Relief as to Defendant Fawaz Sebai, entered by the Court on October 3, 2013, shall remain in effect as to Stipulating Defendants until Stipulating Defendants have made the payment required by Subsection B of this Section; provided, however, that Stipulating Defendants, with the express written consent of counsel for the Commission, may transfer funds to the extent necessary to make such payment. Upon completion of that payment, the asset freeze is dissolved as to Stipulating Defendants only. A financial institution shall be entitled to rely upon a letter from the Commission stating that the freeze on the Stipulating Defendants' assets has been lifted.

V.

PROHIBITIONS REGARDING CONSUMER INFORMATION

IT IS FURTHER ORDERED that Stipulating Defendants, Stipulating Defendants' officers, agents, servants, employees, and attorneys, and all other Persons in active concert or

participation with any of them, who receive actual notice of this Order, are permanently restrained and enjoined from directly or indirectly:

A. Failing to provide sufficient customer information to enable the Commission to efficiently administer consumer redress. If a representative of the Commission requests in writing any information related to redress, Stipulating Defendants must provide it, in the form prescribed by the Commission, within fourteen (14) days;

B. Disclosing, using, or benefitting from customer information, including the name, address, telephone number, email address, Social Security Number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), that any Defendant obtained prior to entry of this Order in connection with the advertising, marketing, promotion, offering for sale, or selling of medical discount plans; and

C. Failing to destroy such customer information in all forms in their possession, custody, or control within thirty (30) days after receipt of written direction to do so from a representative of the Commission.

Provided, however, that customer information need not be disposed of, and may be disclosed, to the extent requested by a government agency or required by a law, regulation, or court order.

VI.

COOPERATION WITH FTC COUNSEL

IT IS FURTHER ORDERED that Stipulating Defendants must fully cooperate with representatives of the Commission in this case and in any investigation related to or associated with the transactions or the occurrences that are the subject of the Complaint, subject, however,

to any privilege that may apply. Stipulating Defendants must provide truthful and complete information, evidence, and testimony. Defendant Sebai must appear, and Defendant 9210-7838 must cause its officers, employees, representatives, or agents to appear, for interviews, discovery, hearings, trials, and any other proceedings that a Commission representative may reasonably request upon five (5) days written notice, or other reasonable notice, at such places and times as a Commission representative may designate, without the service of a subpoena.

VII.

ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Stipulating Defendants obtain acknowledgements of receipt of this Order:

A. Each Stipulating Defendant, within seven (7) days of entry of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For five (5) years after entry of this Order, Defendant Sebai, for any business that he, individually or collectively with any other Defendant, is the majority owner or controls directly or indirectly, and Defendant 9210-7838, must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who participate in conduct related to the subject matter of this Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven (7) days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which a Stipulating Defendant delivered a copy of this Order, that Defendant must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this Order.

VIII.

COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Stipulating Defendants make timely submissions to the Commission:

A. One (1) year after entry of this Order, each Stipulating Defendant must submit a compliance report, sworn under penalty of perjury.

1. Each Stipulating Defendant must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission may use to communicate with Stipulating Defendant; (b) identify all of that Stipulating Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant (which Defendant Sebai must describe if he knows or should know due to his own involvement); (d) describe in detail whether and how that Stipulating Defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

2. Additionally, Defendant Sebai must: (a) identify all telephone numbers and all physical, postal, email and Internet addresses, including all residences; (b) identify all business activities, including any business for which Defendant Sebai

performs services whether as an employee or otherwise and any entity in which Defendant Sebai has any ownership interest; and (c) describe in detail Defendant Sebai's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.

B. For twenty (20) years after entry of this Order, each Stipulating Defendant must submit a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in the following:

1. Each Stipulating Defendant must report any change in: (a) any designated point of contact; or (b) the structure of Defendant 9210-7838, or any entity that Stipulating Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

2. Additionally, Defendant Sebai must report any change in: (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for which Defendant Sebai performs services whether as an employee or otherwise and any entity in which Defendant Sebai has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity.

C. Each Stipulating Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Stipulating Defendant within fourteen (14) days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____" and supplying the date, signatory's full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin with: *FTC v. AFD Advisors, LLC, et al.*, FTC Matter No. X130058.

IX.

RECORDKEEPING

IT IS FURTHER ORDERED that Stipulating Defendants must create certain records for twenty (20) years after entry of the Order, and retain each such record for five (5) years. Specifically, Defendant 9210-7838 and Defendant Sebai, for any business that Defendant Sebai, individually or collectively with any other Defendant, is a majority owner or controls directly or indirectly, must create and retain the following records:

- A. Accounting records showing the revenues from all goods or services sold;
- B. Personnel records showing, for each Person providing services, whether as an employee or otherwise, that Person's: name, addresses, telephone numbers, job title or position, dates of service, and (if applicable) the reason for termination;

- C. Records of all consumer complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response;
- D. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission; and
- E. A copy of each unique advertisement or other marketing material.

X.

COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Stipulating Defendants' compliance with this Order, including the financial representations upon which part of the judgment was suspended and any failure to transfer any assets as required by this Order:

A. Within fourteen (14) days of receipt of a written request from a representative of the Commission, each Stipulating Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission is also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, the Commission is authorized to communicate directly with each Stipulating Defendant. Stipulating Defendants must permit representatives of the Commission to interview any employee or other Person affiliated with any Stipulating Defendant who has agreed to such an interview. The Person interviewed may have counsel present.

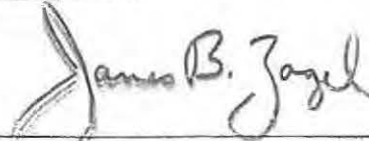
C. The Commission may use all other lawful means, including posing, through its representatives, as consumers, suppliers, or other individuals or entities, to Stipulating Defendants or any individual or entity affiliated with Stipulating Defendants, without the necessity of identification or prior notice. Nothing in this Order limits 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.

XI.

RETENTION OF JURISDICTION

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

SO ORDERED, this 26 day of August, 2014.

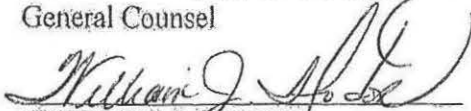


Honorable James B. Zagel
United States District Judge

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SO STIPULATED AND AGREED:


JONATHAN E. NEUCHTERLEIN
General Counsel



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FEDERAL TRADE COMMISSION

Date: 08-14-2014


FAWAZ SEBAI
Individually and on behalf of
9210-7838 QUÉBEC INC.

Date: 05-16-2014


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Date: 5/27/14

Attorney for Defendants
FAWAZ SEBAI and
9210-7838 QUÉBEC INC.

CERTIFICATE OF SERVICE

I hereby certify that on August 14, 2014, I electronically filed the *Stipulated Final Judgment and Order for Permanent Injunction and Other Equitable Relief as to Defendants 9210-7838 Québec Inc. and Fawaz Sebai* with the Clerk of Court using CM/ECF. I also certify that the documents are being served this day on all counsel of record and *pro se* parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

s/ William J. Hodor

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FEDERAL TRADE COMMISSION

SERVICE LIST

FTC v. AFD Advisors, LLC, et al.

Case No. 1:13-cv-06420

United States District Court for the Northern District of Illinois
Eastern Division

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