

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

FEDERAL TRADE
COMMISSION, et al.,

Plaintiffs,

v.

CASE NO. 8:15-cv-1417-T-23AEP

E.M. SYSTEMS
& SERVICES, LLC., et al.,

Defendants.

ORDER

The Federal Trade Commission and the Florida Attorney General sue (Doc. 58) sixteen defendants under the Florida Deceptive and Unfair Trade Practices Act, the Telemarketing and Consumer Fraud and Abuse Prevention Act, and Sections 13(b) and 19 of the FTC Act. The plaintiffs and Jason E. Gagnon stipulate to the injunctive and monetary relief in this order.

DEFINITIONS

A. “Debit Relief Product or Service” means any product, service, or plan represented to re-negotiate, to settle, or to alter a term of payment or another term of the debt between a person and an unsecured creditor or debt collector, including a reduction in balance, interest rate, or fee.

B. “One Easy Defendants” means One Easy Solutions, LLC, and One Easy Solution’s successors and assigns; Jason E. Gagnon, Matthew B. Thomas, Christopher C. Miles, and Kenneth A. Sallies, individually, collectively, or in any combination.

C. The “receiver” is Burton W. Wiand.

D. “Telemarketing” means a plan or program that uses a telephone call, even if not covered under the Telemarketing Sales Rule, to induce the purchase of a good or service.

E. “Settling defendant” means Jason E. Gagnon.

I. Ban on telemarketing

Gagnon must not engage in telemarketing.

II. Ban on marketing a debt relief product or service

Gagnon must not advertise, sell, or assist another in advertising or selling a debt relief product or service.

III. Ban on misrepresentation

Gagnon, and an officer, agent, employee, or attorney of Gagnon, must not misrepresent or assist another in misrepresenting either expressly or impliedly in connection with the advertisement, promotion, or sale of a good or service:

A. The total cost to purchase, to receive, or to use a good or service;

B. That a person is affiliated with, endorsed or approved by, or connected to another person;

C. A term of a policy about a refund, cancellation, exchange, or re-purchase;

D. A material aspect of the product or service’s performance, efficacy, or nature.

E. A material fact.

IV. Ban on unsubstantiated claims

Gagnon, and an officer, agent, employee or attorney of Gagnon, must not represent expressly or impliedly a claim about the performance, efficacy, or benefit of a good or service unless Gagnon relies upon competent evidence to substantiate the claim's truth.

V. Monetary relief

The clerk is directed to enter a judgment in the amount of \$2,567,174 for the Federal Trade Commission and the Office of the Attorney General, State of Florida, Department of Legal Affairs, and against Jason E. Gagnon.

Within seven days of entry of this order and in accord with instructions from the Receiver, Gagnon must transfer to the Receiver the 2013 Infiniti G7 identified in the July 28, 2016 financial statement. At the Receiver's request, Gagnon must transfer the car's title to the Receiver or to the Receiver's designee. The Receiver must sell promptly the car and add the proceeds of the sale to the receivership estate. A transfer fee, tax, or other payment required by law must be paid at the time of the sale from the proceeds. The transfer of the car and the car's title will suspend the remainder of the judgment if the plaintiffs agree to the suspension. And the plaintiffs agree to the partial suspension of the judgment against Gagnon only if Gagnon's July 28, 2016 financial representation is truthful, accurate, and complete.

If an order finds that Gagnon materially misstated, or failed to disclose, either a material asset or an asset's value, the order will re-instate the judgment.

If re-instated, the judgment is due immediately. For this section only, the parties stipulate that the judgment amount represents the One Easy defendants' unjust enrichment plus post-judgment interest less a payment made in accord with this section.

In any civil litigation by or on behalf of plaintiffs, including a proceeding to enforce the judgment and a non-dischargeability claim in a bankruptcy action, Gagnon may not dispute the truth of the complaint's factual allegations.

Gagnon relinquishes legal and equitable right, title and interest in an asset surrendered under this order and may not seek return of a surrendered asset.

Gagnon permits the use, in accord with 31 U.S.C. § 7701, of a Taxpayer Identification Number, i.e., a Social Security Number or Employer Identification Number, for the collection and the reporting of a delinquent amount of the judgment.

The plaintiffs must deposit money paid in satisfaction of the judgment into a fund administered by the FTC or its designee and used for equitable relief, including consumer redress and the expenses of administering the redress program. If redress is impracticable or if money remains after completion of the redress program, the plaintiffs may use the money for other equitable relief, i.e., a consumer information remedy, that is reasonably related to Gagnon's alleged violations. The plaintiffs may divide equally any money not used for consumer redress or for equitable relief. The FTC must deposit its half in the U.S. Treasury and the Florida Attorney General must deposit its half in the Florida Attorney General Department of Legal Affairs'

Revolving Trust Fund. Gagnon may not challenge any expense under this section by the plaintiffs.

VI. Customer information

For information obtained (before entry of this order) by Gagnon in connection with the marketing or sale of a debt relief product or service, Gagnon must not disclose or use customer information, which includes a name, address, telephone number, e-mail address, Social Security number, or any data that permits access to a customer's credit card, bank, or other financial account. And, if directed in writing by a plaintiff, Gagnon must destroy any of the above information within thirty days of the receipt of the directive. But Gagnon need not destroy, and may disclose, customer information if required by law to preserve or to disclose the information.

VII. Cooperation

Gagnon must cooperate fully with the plaintiffs in this action and in any investigation related to this action. Gagnon must provide truthful and complete information, evidence, and testimony, and must appear for an interview, hearing, discovery, trial, or another proceeding if the plaintiff provides at least five days' written notice and if the subject of the proceeding relates to the allegations in this action.

VIII. Acknowledgments

Within seven days of receiving this order, Gagnon must submit to the plaintiffs a sworn acknowledgment that he received the order.

For twenty years after entry of this order, Gagnon, for any business that he owns individually or collectively with another One Easy defendant and for which business Gagnon owns or controls a majority share, must deliver this order to the business's principals, officers, directors, and LLC managers and members, to all employees, agents, and representatives who participate in conduct related to the subject of this action; and to any business entity resulting from a change in structure (as explained in the compliance reporting section of this order). Gagnon must deliver this order to current personnel within seven days of the order's entry. For all others, Gagnon must deliver this order before assuming responsibility. For each person described above, Gagnon must obtain within thirty days of delivery a signed and dated acknowledgment by the person that he received this order.

IX. Compliance reporting

A year after entry of this order, Gagnon must submit a sworn compliance report which includes:

1. The settling defendant's telephone number and primary physical, postal, and e-mail address.
2. A list of the settling defendant's businesses and the names, telephone numbers, and physical, postal, e-mail, and Internet addresses of the business;
3. For each business listed in accord with the instruction above, a description of the business's activity, including the good or service offered; the means of advertising, marketing, and sales; and a list of every other One Easy defendant involved with the business;

4. A detailed explanation whether and why the settling defendant is compliant with this order, and;

5. Unless already submitted, a copy of each order acknowledgment obtained under this order.

Also, Gagnon must identify all of his telephone numbers and physical, postal, e-mail, and Internet addresses; identify all business activities; and describe in detail his involvement in the business, including his title, role, responsibilities, and ownership interest.

For twenty years after entry of this order, Gagnon must submit a sworn compliance notice within fourteen days of any change in:

1. The settling defendant's telephone number and primary physical, postal, and e-mail address.
2. The structure of an entity in which Gagnon has or acquires an interest, including a merger, sale, incorporation, dissolution, or any of the preceding that involves a parent, subsidiary, or affiliate engaged in any act that is the subject of this action.
3. Gagnon's name (including an alias) or residence; and the role in any business activity or the individual's title in any business.

Gagnon must notify plaintiffs about the filing of a bankruptcy petition or an insolvency proceeding by or against Gagnon within fourteen days of the petition's filing.

Unless a plaintiff requests differently, Gagnon must submit a document or statement required by this order to the FTC at Debrief@ftc.gov with subject line "FTC v. E.M. Systems, et al., Jason E. Gagnon, No. X150051." Or Gagnon may submit the document by overnight courier to the Associate Director for Enforcement,

Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Ave. NW, Washington, D.C., 20580. Also, Gagnon must submit the document or statement to the Florida Attorney General at cpenforcement@myfloridalegal.com or mail the document to the Office of the Attorney General, Director of the Consumer Protection Division, 3507 East Frontage Road #325, Tampa, Florida 33607.

A sworn statement to the plaintiffs must comply with 28 U.S.C. § 1746.

X. Recordkeeping

For a business owned or controlled in majority share by Gagnon, the settling defendant must create the following documents for twenty years after entry of this order:

1. An accounting record that shows the revenue from all goods and services sold;
2. A personnel record that shows each employee or contractor's name, address, telephone number, job title, dates of service, and if applicable the reason for termination;
3. A record of every chargeback and refund request received by the settling defendant and the settling defendant's response;
4. An ad or a marketing material distributed by the settling defendant; and
5. A record necessary to demonstrate compliance with this order.

XI. Compliance monitoring

Within fourteen days of a written request from a plaintiff, Gagnon must submit a sworn compliance report or other information requested by the plaintiff and must produce a requested document. Without requesting leave of court, a plaintiff

may obtain discovery under Rules 29, 30, 31, 33, 34, 36, 45, and 69, Federal Rules of Civil Procedure, if the discovery request relates to this order or to the complaint in this action. Also, the FTC may invoke compulsory process under Sections 9 and 20 of the FTC Act.

If the employee or individual agrees, Gagnon must permit a representative of a plaintiff to interview an employee of his or another individual affiliated with him. The person's counsel may appear at the interview.

XII. Jurisdiction retained

Jurisdiction is retained to enforce this order.

ORDERED in Tampa, Florida, on January 17, 2017.



STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE