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U.S. DISTRICT COURT OF OHIO
NORTHERN DISTRICT OF OHIO
CLEVELAND

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

9013-0980 QUEBEC INC.,
corporation of Quebec, Canada,
d/b/a Incentive International,
Incentives International,
and Pegasus Industries, and

OFER BAAZOV, and

JOSHUA BAAZOV,

Defendants.

Case No. 1:96CV 1567

**JUDGMENT AND ORDER FOR REDRESS
AND PERMANENT INJUNCTION**

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Plaintiff, the Federal Trade Commission ("Commission"), commenced this action by **filing** a complaint for a permanent injunction and other relief, including restitution to consumers, pursuant to Sections 5(a), 13(b), and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a), 53(b), and 57b, and Section 6 (b) of the Telemarketing and Consumer Fraud and

Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. § 6105(b). The Commission alleged that defendants Ofer Baazov, Joshua Baazov, and 9013-0980 Quebec Inc., d/b/a Incentive International, Incentives International, and Pegasus Industries, had deceptively telemarketed prize promotions to U.S. citizens in violation of the Telemarketing Sales Rule, 16 C.F.R. § 310 *et seq.*, and Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

The Commission has moved for an entry of default against defendants, as well as a judgment against defendants and an order for consumer redress and a permanent injunction. Having considered the Commission’s pleadings, declarations, exhibits, and memoranda, the Commission’s motion is GRANTED, and

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

FINDINGS

1. **This** Court has jurisdiction of the subject matter and over the parties in this case, pursuant to (28 U.S.C. § 1345);
2. The Commission is authorized to seek the equitable relief that it requests under Sections 13(b), and 19(b) of the FTC Act, 15 U.S.C. § § 53(b), 57b(b), and a under Section 6105(b) of the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. § 6105(b).
3. The Commission’s complaint states a claim upon which relief may be granted against the defendants under the Telemarketing Sales Rule, 16 C.F.R. § 310, and Section 5(a) of the FTC Act, 15 U.S.C. § 45(a);
4. The defendants -- Ofer Baazov, Joshua Baazov, and 9013-0980 Quebec Inc. d/b/a Incentive International, Incentives International, and Pegasus Industries -- have engaged in and

are likely to engage in acts and practices that violate Section 5(a) of the **FTC** Act, 15 U.S.C. § 45(a) and the Telemarketing Sales Rule, 16 **C.F.R.** § 310.

DEFINITIONS

1. “Defendants” means Ofer Baazov, Joshua Baazov, and 9013-0980 Quebec Inc., also doing business as Incentive International, Incentives International, or Pegasus Industries, and each of them and their successors, assigns, officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise.

2. “**Common carrier**” means any entity that receives, ships, **and** delivers mail pieces, envelopes, or packages for the general public.

3. “Fulfillment house” means any entity that supplies or offers to supply prizes, redeemable certificates, or other merchandise to telemarketing companies, or to consumers **on** behalf of telemarketing companies.

4. “List provider” means any entity that provides or offers to provide telemarketing companies with information about individual consumers, including but not limited to information about a consumer’s name, telephone number, address, age, social security number, credit history, purchasing history, or other financial background.

5. “Prize” means anything offered or given, or purportedly offered or given, to a person by chance. For purposes of this definition, chance exists **if** a person is guaranteed to receive an item and, at the time of the offer or purported offer, the telemarketer does not identify the specific item that the person **will** receive.

6. "Prize promotion" means: (a) a sweepstakes or other game of chance; or (b) an oral or written express or implied representation that a person has won, has been selected to receive, or may be eligible to receive a prize or purported prize.

ORDER

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IT IS THEREFORE ORDERED, ADJUDGED, and DECREED that, in connection with the telemarketing of any prize promotion to consumers located in the United States, whether acting directly or through any other corporation, including any corporation doing business as Pegasus Industries, defendants are hereby restrained and enjoined from:

- A** Making or assisting others in making, directly or by implication, any misrepresentation of a material fact regarding a prize promotion, as prohibited by Section 5 of the **FTC Act**, 15 **U.S.C** § 45(a) and the Telemarketing Sales Rule, 16 **C.F.R** § 310, including but not limited to:
1. Any misrepresentation about the nature or value of a prize;
 2. Any misrepresentation that a consumer will receive a prize worth more than the consumer pays to any defendant;
 3. Any misrepresentation that a consumer has won or been specially selected to receive a prize;
 4. Any misrepresentation about the nature or value of a good or service offered or sold in connection with a prize promotion;
- B**. Failing to disclose the following information to a consumer in a clear and conspicuous manner, before the consumer pays for the goods or services offered,

as required by the Telemarketing Sales Rule, 16 C.F.R. §§ 310.3(a)(1) and 310.3(d)(4):

1. The odds of being able to receive the prize offered;
2. That no purchase or payment is required to win a prize or to participate in a prize promotion;
3. The no purchase/no payment method of participating in the prize promotion with either instructions on how to participate or an address or local or toll-free telephone number to which consumers may write or call for information on how to participate;
4. ~~All~~ material costs or conditions to receive or redeem a prize that is the subject of the prize promotion.

II.

IT IS FURTHER ORDERED, ADJUDGED, and DECREED that defendants shall pay to the Federal Trade Commission an award for consumer redress or restitution, in an amount of **seven hundred seventy-six thousand nine hundred ninety-seven dollars (\$776,997.00)**.

These funds shall be distributed to injured consumers, pursuant to a redress distribution plan to be submitted by the Commission and approved by the Court.

III.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that for a period of five **(5)** years from the date of entry of this Order, the defendants are hereby enjoined from:

- A. Failing to create and maintain books, records, accounts, and data which, in reasonable detail, accurately, fairly, and completely reflect their incomes, disbursements, transactions, and use of monies; and
- B. Destroying, erasing, mutilating, concealing, altering, transferring, or otherwise disposing *of*, in any manner, directly or indirectly, any contracts, accounting data, correspondence, advertisements, computer tapes, disks, or other computerized records, books, written or printed records, handwritten notes, telephone logs, telephone scripts, audio or video tape recordings, receipt books, invoices, postal receipts, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, copies of federal, state, provincial, or local business or personal income or property tax returns, and other documents or records of any kind that relate to the business practices or business or personal finances of any defendant.

IV.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that, for a period of five (5) years from the date of the entry of this Order, immediately upon being employed or retained, or employing, directing, or managing any person, in connection with that part of any business entity that is engaged in telemarketing to U.S. consumers, defendants shall:

- A. Provide a copy of this Order to any person or entity by whom defendants are employed or retained, whether as employee, consultant, independent contractor or otherwise, and to any person or entity whom defendants retain, whether as employee, consultant, independent contractor or otherwise. **As** to each such person, defendants shall either secure a signed statement acknowledging receipt of such Order or prepare a sworn affidavit attesting to the fact that defendants have provided a copy of the Order to that person. The information in the affidavit shall include, but is not limited to, the name and address of the person or entity to whom the order was provided and the date the order was provided.
- B. Notify the FTC in writing within ten (10) days of their becoming **affiliated** with **all** such business entities and send a copy to the FTC of any signed statement or affidavit obtained pursuant to Part IV.A along with the notification.

V.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that defendants shall notify the FTC in writing, within ten (10) days after issuance of this Order, of their current residence address(es) and employment status, including the name(s) and business address(es) of their current employer(s), and for a period of five (5) years from the date of the entry of this

Order, shall **inform** the FTC in writing within thirty (30) days of any changes in their residence address(es) or employment status, in order that compliance with the provisions of this Order can be monitored.

VI.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that, for a period of five (5) years from the date of service of this Order, defendant 9013-0980 Quebec Inc. or any entity doing business as Incentive International, Incentives International, or Pegasus Industries, as well as any successor or assign, shall **notify** the FTC at least thirty (30) days prior to any change in its corporate structure, including but not limited to merger, dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation that may affect compliance obligations arising out of this Order.

VII.

IT IS FURTHER ORDERED, ADJUDGED, and DECREED that pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(1), any consumer reporting agency may furnish a consumer report concerning any defendant to **plaintiff**.

VIII.

IT IS FURTHER ORDERED, ADJUDGED, and DECREED that, for a period of five (5) years from the date of the entry of this Order, defendants are enjoined from creating, operating, or controlling any business entity that does business in the United States, whether newly formed or previously inactive, including any **partnership**, limited partnership, joint venture, sole proprietorship, or corporation, without first providing the Commission with a written statement disclosing: (1) the name of the business entity; (2) state or province of incorporation;

(3) the address and telephone number of the business entity; (4) the names of the business entity's officers, directors, principals, managers, and employees; and (5) a detailed description of the business entity's intended activities.

IX.

IT IS FURTHER ORDERED, ADJUDGED, and DECREED that, for a period of five (5) years from the date of the entry of this Order, defendants are restrained and enjoined from engaging or participating in telemarketing to consumers located in the United States, directly or through any intermediary, without each of them **first** obtaining a performance bond. The principal *sum* of each bond shall be in the amount of two hundred thousand dollars (\$200,000), and shall include the following:

- A. Each performance bond shall be an insurance agreement pledging surety for financial loss issued by a surety company that is admitted to do business in each state of the United States in which any bonded defendant does business and that holds a United States Federal Certificate of Authority **As Acceptable Surety On Federal Bond and Reinsuring**. Each performance bond shall cite this Order as the subject matter of the bond, and shall provide surety thereunder against financial loss resulting from whole or partial failure of performance due, in whole or in part, to any conduct violating Section 5 of the Federal Trade Commission Act, 15 U.S.C. **\$45**, the Telemarketing Sales Rule, **16 C.F.R. § 310**, or the provisions of this Order. Each performance bond shall be executed in favor of both: (1) the Federal Trade Commission for the benefit of any consumer injured as a result of any violation of this Order; and (2) any consumer so injured;

- B.** Each bond shall be deemed continuous and remain in **full** force and effect for one year after the delivery or promised delivery of goods or services offered in any telemarketing campaign, or until such time directed by further order of this Court;
- C.** Each bond required by this Part of this Order is in addition to, and not in lieu **of**, any other bond required by federal, state, provincial, or local law;
- D.** Each defendant shall provide a copy of each such bond to the Associate Director for Marketing Practices at the address specified in Part XIII at least ten (10) days before the commencement of any activity for which the bond is required; and
- F.** Proceedings instituted under this Part 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 the FTC may initiate to enforce this Order.

X.

IT IS FURTHER ORDERED, ADJUDGED, and DECREED that, for a period of five (5) years from the date of the entry of this Order, before any defendant requests, orders, receives or contracts to receive any goods or services from a list provider or fulfillment house in connection with telemarketing, defendants must first provide to the list provider or fulfillment house and to the FTC, a copy of this Order and a copy of the bond that has been secured in compliance with Part IX above.

XI.

IT IS FURTHER ORDERED, ADJUDGED, and DECREED that, for a period of five (5) years from the date of the entry of this Order, before defendants accept for delivery or pick-up any package sent via common carrier, in connection with any past, present, or future

telemarketing, defendants must first provide to the common carrier and the FTC a copy of this Order and a copy of the bond that has been secured in compliance with ~~Part~~ IX above.

XII.

IT IS FURTHER ORDERED, ADJUDGED, and DECREED that defendants shall immediately provide a copy of ~~this~~ Order to each affiliate, subsidiary, division, sales entity, successor, assign, officer, director, employee, independent contractor, agent, attorney, solicitor, barrister, and representative, and shall, within ten (10) days from the date of entry of this Order, provide plaintiff with a sworn statement that defendants have complied with this provision of the Order, which statement shall include the names and addresses of each such person or entity who received a copy of the Order.

XIII.

IT IS FURTHER ORDERED, ADJUDGED, and DECREED that ~~all~~ notices required of defendants by this Order shall be made to the following address:

Associate Director
Division of Marketing Practices
Federal Trade Commission
6th Street & Pennsylvania Ave., N.W.
Room 238
Washington, D.C. 20580

XIV.

IT IS FURTHER ORDERED, ADJUDGED, and DECREED that this Court shall retain jurisdiction **of** this matter for all purposes.

SO ORDERED, this 11th day of Feb., 1997, at ~~___~~ m.


The Honorable Patricia A. Gaughan
United States District Judge