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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

STUDENT AID INC.
ADEL KOVALEVA,
and RAIMMA TAGIEV,

Defendants.

**FINAL ORDER FOR
PERMANENT INJUNCTION
AND SETTLEMENT OF
CLAIMS FOR MONETARY
RELIEF**

96 Civ. 6548 (LMM)

WHEREAS plaintiff, the Federal Trade Commission ("Commission"), commenced this action by filing its complaint against defendants Student Aid, Inc. ("Student Aid"), Adel Kovaleva ("Kovaleva") and Raimma Tagiev ("Tagiev") and the complaint alleges that the defendants engaged in unfair or deceptive acts or practices in violation of Section 5 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 45, and seeks a permanent injunction and monetary relief pursuant to Section 13(b) of the FTC Act;

WHEREAS the Commission and defendants Student Aid, Kovaleva and Tagiev have agreed to the entry of this Final Order for Permanent Injunction and Settlement of Claims for Monetary Relief without trial or adjudication of any of the issues of law or fact herein;

NOW, THEREFORE, the Commission, and defendants Student Aid, Kovaleva and Tagiev have requested the Court to enter this Order for a Permanent Injunction and Settlement of Claims for Monetary Relief. It is therefore, **ORDERED, ADJUDGED AND DECREED,** as follows:

FINDINGS

1. This is an action by the Commission instituted under Sections 5 and 13(b) of the Federal Trade Commission Act, 15 U.S.C. §§ 45 and 53(b). The complaint seeks both permanent injunctive relief and consumer redress for alleged unfair or deceptive acts or practices by the defendants in connection with the operation of a scholarship search service.

2. The Commission has the authority under Section 13(b) of the FTC Act to seek the relief it has requested.

3. This Court has jurisdiction over the subject matter of this case and has jurisdiction over the defendants Student Aid, Kovaleva and Tagiev. Venue in the Southern District of New York is proper, and the complaint states a claim upon which relief may be granted against defendants Student Aid, Kovaleva and Tagiev under Sections 5 and 13(b) of the FTC Act.

4. The activities of defendants Student Aid, Kovaleva and Tagiev are in or affecting commerce, as defined in 15 U.S.C. § 44.

5. Defendants Student Aid, Kovaleva and Tagiev neither admit nor deny the allegations set forth in the complaint.

6. Defendants Student Aid, Kovaleva and Tagiev waive all rights to seek judicial review or otherwise challenge or contest the validity of this Order. Defendants Student Aid, Kovaleva and Tagiev also waive any claim that they may have held under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action to the date of this Order. Defendants Student Aid, Kovaleva and Tagiev shall bear their own costs and attorneys' fees.

7. This action and the relief awarded herein are in addition to, and not in lieu of, other remedies as may be provided by law, including both civil and criminal remedies.

8. Entry of this Order is in the public interest.

DEFINITIONS

For purposes of this Order, the following definitions shall apply:

(A) “Scholarship search service” shall mean any business activity that purports to assist consumers with obtaining scholarships, grants, or other financial assistance.

(B) “Assisting others engaged in any scholarship search service” means knowingly providing any of the following goods or services to any person or entity engaged in scholarship search services : (1) performing customer service functions for an entity engaged in any scholarship search service, including, but not limited to, receiving or responding to consumer complaints; (2) formulating or providing, or arranging for the formulation or provision of, any telephone sales script or any other marketing material for an entity engaged in any scholarship search service; (3) providing names of, or assisting in the generation of, potential customers for an entity engaged in any scholarship search service; or (4) performing marketing services of any kind for an entity engaged in any scholarship search service.

PROHIBITION AGAINST MISREPRESENTATIONS

I.

IT IS HEREBY ORDERED that defendants Student Aid, Kovaleva and Tagiev and their agents, servants, employees, attorneys, corporations, subsidiaries, successors, assigns, and all other persons or entities in active concert or participation with them who receive notice of this Order by personal service or otherwise, in connection with the advertising, promotion, offer for sale, or sale of any item, product, good, service, or investment interest of any kind, are hereby permanently restrained and enjoined from:

(A) Falsely representing, directly or by implication, the likelihood that a consumer will obtain a scholarship, grant, or other financial assistance;

(B) Falsely representing, directly or by implication, the past success of any person or entity in assisting its customers to obtain scholarships, grants, or other financial assistance;

(C) Falsely representing, directly or by implication, that consumers will obtain scholarships, grants or other financial assistance with little or no effort on their part;

(D) Falsely representing, directly or by implication, that any consumer is guaranteed to

obtain a scholarship, grant, or other financial assistance;

(E) Falsely representing, directly or by implication, that any person or entity will provide a consumer with information about scholarships, grants, or other financial assistance for which the customer is qualified or will qualify;

(F) Falsely representing, directly or by implication, the use(s) that will be made of a consumer's bank account or credit card information;

(G) Withdrawing money from a consumer's bank account or billing charges to a consumer's credit card without obtaining express written authorization from the consumer (in connection with any scholarship search service, such authorization must be in the form set forth in Appendix A to this Order);

(H) Falsely representing, directly or by implication, that a consumer will be automatically refunded any money he or she has paid to a scholarship search service;

(I) Failing to disclose all terms and conditions of any refund policy prior to completing any sale;

(J) Falsely representing, directly or by implication, any aspect of a refund policy offered by a scholarship search service;

(K) Falsely representing, directly or by implication, any fact material to a consumer's decision to purchase any item, product, good, service, or investment interest of any kind, including, but not limited to, the services of a scholarship search service; and

(L) Using, for any purpose whatsoever, any aliases or assumed names that are different from their legal names, or using, for any purpose whatsoever, unincorporated businesses or entities.

AFFIRMATIVE DISCLOSURE

II.

IT IS FURTHER ORDERED that defendants Student Aid, Kovaleva and Tagiev and their agents, servants, employees, attorneys, corporations, subsidiaries, successors, assigns, and all other persons or entities in active concert or participation with them, who receive notice of this Order by personal service or otherwise, in connection with the advertising, promotion, offer for

sale, or sale of any scholarship search service, shall obtain from each customer a signed and dated statement in the exact form set forth in Appendix A before accepting payment from that customer. Defendants Student Aid, Kovaleva and Tagiev shall retain a signed copy of each such signed statement for five years from its date of execution by the customer.

RECORD KEEPING AND DOCUMENT RETENTION

III.

IT IS FURTHER ORDERED that, for a period of five years from the date of entry of this Order, defendants Kovaleva and Tagiev, in connection with any business where

- (1) defendants Kovaleva and Tagiev, jointly or individually, are the majority owners of the business or otherwise directly or indirectly manage or control the business, and where
- (2) the business engages in, or is assisting others engaged in, any scholarship search service,

are hereby restrained and enjoined from failing to create, and from failing to retain for a period of three years following the date of such creation, unless otherwise specified:

(A) Books, records and accounts that, in reasonable detail, accurately and fairly reflect the cost of goods or services sold, revenues generated, and the disbursement of such revenues;

(B) Records accurately reflecting: the name, address, and telephone number of each person that any of the above-referenced businesses employs in any capacity, including as an independent contractor; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable. The businesses subject to this Paragraph shall retain such records for any terminated employee for a period of two years following the date of termination;

(C) Records containing the names, addresses, phone numbers, dollar amounts paid, quantity of items purchased, and description of items purchased, for all consumers to whom any of the above-referenced businesses has sold, invoiced or shipped any goods or services, or from whom any of the above-referenced businesses accepted money or other items of value;

(D) Records that reflect, for every consumer complaint or refund request, whether received directly or indirectly or through any third party:

- (1) the consumer's name, address, telephone number and the dollar amount paid by the consumer;
 - (2) the written complaint, if any, and the date of the complaint or refund request;
 - (3) the basis of the complaint, including the name of any salesperson complained against, and the nature and result of any investigation conducted concerning the validity of any complaint;
 - (4) each response and the date of the response;
 - (5) any final resolution and the date of the resolution; and
 - (6) in the event of a denial of a refund request, the reason for such denial, or if the complaint was cured, the basis for determining that the complaint was cured; and
- (E) Copies of all sales scripts, training packets, advertisements, or other marketing materials utilized.

ORDER DISTRIBUTION

IV.

IT IS FURTHER ORDERED that, for a period of five years from the date of entry of this Order, defendants shall:

(A) Provide a copy of this Order to, and obtain a signed and dated acknowledgment of receipt of same from, each officer or director, each individual serving in a management capacity, all personnel involved in responding to consumer complaints or inquiries, and all sales personnel, whether designated as employees, consultants, independent contractors or otherwise, immediately upon employing or retaining any such persons, for any business where

(1) defendants Kovaleva and Tagiev, either jointly or individually, are the majority owners of the business or otherwise directly or indirectly manage or control the business, and where

(2) the business engages in, or is assisting others engaged in, the sale, by any means, of any scholarship search service;

and

(B) Maintain for a period of three years after creation, and upon reasonable notice make

available to representatives of the Commission, the original signed and dated acknowledgments of the receipt of copies of this Order, as required in Subsection (A) of this Paragraph.

ACCESS AND MONITORING

V.

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

(A) Defendants Kovaleva and Tagiev shall notify the Commission in writing, within ten days of the date of entry of this Order, of their current residence address, mailing address, business and home telephone numbers, and employment status, including the names, telephone numbers, and business addresses of any current employers;

(B) For a period of five years from the date of entry of this Order, defendants Kovaleva and Tagiev shall notify the Commission in writing within thirty days of any changes in their residence or mailing addresses, telephone numbers, or employment status;

(C) For the purposes of this Order, all written notifications to the Commission shall be mailed to:

Regional Director
New York Regional Office
Federal Trade Commission
150 William Street, 13th floor
New York, New York 10038

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96-Civ-6548 (LMM) (SDNY);

and

(D) For the purposes of this Paragraph, "employment" includes the performance of services as an employee, consultant, or independent contractor; and "employers" include any individual or entity for whom defendants Kovaleva and Tagiev perform services as an employee, consultant, or independent contractor.

VI.

IT IS FURTHER ORDERED that, for a period of five years from the date of entry of this Order, for the purpose of further determining compliance with this Order, defendants Kovaleva and Tagiev shall permit representatives of the Commission, within five business days of receipt of

written notice from the Commission:

(A) Access during normal business hours to any office, or facility storing documents, of any business where

- (1) defendants Kovaleva and Tagiev, jointly or individually, are the majority owners of the business or otherwise directly or indirectly manages or controls the business, and where
- (2) the business engages in, or is assisting others engaged in, the sale, by any means, of any scholarship search service.

In providing such access, defendants Kovaleva and Tagiev shall permit representatives of the Commission to inspect and copy all documents relevant to any matter contained in this Order; and

(B) To interview or depose the officers, directors, and employees, including all personnel involved in responding to consumer complaints or inquiries, and all sales personnel, whether designated as employees, consultants, independent contractors or otherwise, of any business to which Subsection (A) of this Paragraph applies, concerning matters relating to compliance with the terms of this Order. The person interviewed or deposed may have counsel present. *Provided further*, that the Commission may otherwise monitor defendants Kovaleva and Tagiev's compliance with this Order by all lawful means available, including the use of compulsory process seeking production of documents and the use of investigators posing as consumers or suppliers.

MONETARY RELIEF

VII.

IT IS FURTHER ORDERED that:

(A) Judgment is hereby entered against defendants Kovaleva and Tagiev, in the amount of Seven Thousand Five Hundred Dollars (\$7500) for equitable monetary relief, including but not limited to, consumer redress, and for paying any attendant expenses of administering any redress fund. In order to satisfy the judgment, defendants Kovaleva and Tagiev hereby agree to relinquish all right, title and interest to the sum of \$7500 which is currently being held in an escrow account by the Commission. Upon satisfaction of this judgment, the freeze of defendants Kovaleva's and Tagiev's assets pursuant to the preliminary injunction shall be dissolved.

(B) If the Commission, in its sole discretion, determines that redress is wholly or partially

impractical, any funds not so used shall be deposited in the United States Treasury. The Commission in its sole discretion may use a designated agent to administer consumer redress. Defendants Kovaleva and Tagiev acknowledge and agree that this judgment for equitable monetary relief, as with all other relief provided in this Order, is solely remedial in nature and is not a fine, penalty, punitive assessment, or forfeiture.

(C) Each party to this Order hereby agrees to bear its own costs and attorney fees incurred in connection with this action; *provided, however*, in the event the Commission initiates proceedings to enforce this Order and *provided further* the Court determines that defendants Kovaleva and Tagiev have violated any term or provision of this Order, defendants Kovaleva and Tagiev shall pay the costs and attorney fees incurred by the Commission or its agents in connection with proceedings to enforce this Order. Defendants further agree that the facts as alleged in the complaint shall be taken as true in any subsequent litigation filed by the Commission pursuant to this Order, including but not limited to, a non-dischargeability complaint in any subsequent bankruptcy proceeding.

REAFFIRMATION OF FINANCIAL STATEMENT

VIII.

IT IS FURTHER ORDERED that, within three business days from the date of entry of this Order, defendants Kovaleva and Tagiev shall submit to the Commission a truthful sworn statement that shall reaffirm and attest to the truth, accuracy and completeness of defendant Kovaleva's and defendant Tagiev's financial statements, executed on September 4, 1996, and previously submitted to the Commission, and thereafter updated and reaffirmed on February 20, 1997 and March 6, 1997, respectively (hereinafter referred to as the "September 4, 1996 financial statements").

RIGHT TO REOPEN

IX.

IT IS FURTHER ORDERED THAT:

(A) The Commission's agreement to this Order is expressly premised upon the truthfulness, accuracy, and completeness of defendant Kovaleva's and defendant Tagiev's financial condition as represented in the respective September 4, 1996 financial statements, which contain material information relied upon by the Commission in negotiating and agreeing to the terms of this Order. If, upon motion by the Commission, this Court finds that defendant Kovaleva or defendant Tagiev failed to disclose any material asset, materially misrepresented the value of any asset, or made any other material misrepresentation or omission on their respective September 4, 1996 financial statement, the Commission may request that this Order be reopened for the sole purpose of allowing the Commission to modify the monetary liability of defendants Kovaleva and Tagiev; *provided, however*, that in all other respects this Order shall remain in full force and effect unless otherwise ordered by the Court and that defendants Kovaleva and Tagiev have no right to contest any of the allegations in the Commission's complaint in this matter in any proceedings brought pursuant to this subparagraph; and, *provided further*, that proceedings instituted under this provision would be 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 Commission may initiate to enforce this Order.

RETENTION OF JURISDICTION

X.

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

ENTRY OF THIS JUDGMENT

XI.

IT IS FURTHER ORDERED that there is no just reason for delay of entry of this judgment, and, pursuant to Fed. R. Civ. P. 54(b), the Clerk shall enter this Order immediately.

STIPULATED AND AGREED TO:

FEDERAL TRADE COMMISSION
New York Regional Office
150 William Street, 13th floor
New York, New York 10038
(212) 264-1225

OFFICES OF SIMON KOGAN
39 Broadway, Suite 2705
New York, New York 10006
(212) 425-8200

BY: _____
CAROLE A. PAYNTER (CP4091)

LOUIS TAUBMAN (LT)

ADEL KOVALEVA
Defendant

RAIMMA TAGIEV
Defendant

SO ORDERED:

DATE: _____

LAWRENCE M. MCKENNA
UNITED STATES DISTRICT JUDGE

APPENDIX A

Dear Customer:

Before doing business with _____, you should be aware that:

(1) This company has no knowledge of whether our customers have been successful in obtaining scholarships or grants based on the information we have provided them. We do not make any predictions whatsoever as to whether you will be able to obtain any scholarship or grant money using the information we provide to you.

(2) Many scholarships are available for only limited times. Thus, the information we provide to you may include information about scholarships that are no longer available, that will not become available for several months, or that accept applications during only a very short time window.

If you would like to engage our services, please check your method of payment below:

- check
- automatic check draft
- credit card

If you are paying by automatic check draft or credit card, please include the appropriate information below:

name of bank and checking account number: _____

type of credit card, name of credit car issuer, credit card account number, and expiration date: _____

amount of payment: _____

By signing this form, I acknowledge that I have read the disclosure set forth above. If I have provided my bank account or credit card information, I am also authorizing a withdrawal/charge to my account in the amount set forth above.

Date

Customer Signature