

WS.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MIAMI DIVISION

Case No. 08-21433 -CIV-Jordan/McAliley

2/11/09

SCANNED

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

ALTERNATEL, INC.; G.F.G. ENTERPRISES LLC,
also d/b/a MYSTIC PREPAID; VOICE PREPAID,
INC.; TELECOM EXPRESS, INC.; VOICE
DISTRIBUTORS, INC.; LUCAS FRIEDLAENDER;
MOSES GREENFIELD; NICKOLAS GULAKOS;
and FRANK WENDORFF,

Defendants.

**CLOSED
CIVIL
CASE**

**STIPULATED FINAL ORDER FOR PERMANENT INJUNCTION AND
MONETARY JUDGMENT AS TO ALL DEFENDANTS**

On May 19, 2008, plaintiff, the Federal Trade Commission ("FTC" or the "Commission"), filed its Complaint against defendants Alternatel, Inc.; G.F.G. Enterprises LLC, also d/b/a Mystic Prepaid; Voice Prepaid, Inc.; Voice Distributors, Inc.; Telecom Express, Inc.; Moses Greenfield; Nickolas Gulakos; Lucas Friedlaender; and Frank Wendorff for injunctive and other equitable relief pursuant to Sections 5 and 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a), 53(b). On May 23, 2008, after a hearing at which all parties were represented by counsel, the Court issued a Temporary Restraining Order ("TRO"). The parties agreed to consolidate the FTC's motion for preliminary injunction with a final trial on the merits, and all defendants consented to the extension of such TRO until the Court issued a ruling on the consolidated preliminary injunction hearing/trial on the merits, or until further order of the Court.

The Commission and all defendants hereby stipulate to, and request the Court to enter, this Stipulated Final Order for Permanent Injunction and Monetary Judgment as to all defendants to resolve all matters of dispute in this action. By stipulating to the entry of this Order, the defendants do not admit any liability as alleged in the FTC's Complaint, and admit only the jurisdictional facts alleged in the FTC's Complaint.

IT IS THEREFORE STIPULATED, AGREED, AND ORDERED as follows:

1. This Court has jurisdiction over the subject matter of this case, and it has jurisdiction of all parties hereto pursuant to 15 U.S.C. §§ 45(a), 53(b), and 28 U.S.C. §§ 1331, 1337(a), and 1345.
2. Venue is proper in the Southern District of Florida pursuant to 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b) and (c).
3. The activities alleged in the Complaint are in or affecting "commerce" as that term is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
4. The facts that the FTC has stated in its Complaint, if true, would state a claim upon which relief may be granted under Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a) and 53(b).
5. Alternatel, Inc., G.F.G. Enterprises LLC, also d/b/a Mystic Prepaid, Voice Prepaid, Inc., Telecom Express, Inc., Voice Distributors, Inc., Lucas Friedlaender, Moses Greenfield, Nickolas Gulakos, and Frank Wendorff have entered into this Order freely and without coercion, and they each acknowledge that they have read the provisions of this Order and are prepared to abide by them.
6. The undersigned, individually and by and through their counsel, have agreed that the entry of this Order resolves all matters of dispute arising from the Complaint in this action,

up to the date of entry of this Order.

7. All defendants waive all rights to seek appellate review or otherwise challenge or contest the validity of this Order and waive and release any claim they may have against the FTC, its employees, representatives, or agents.

8. Alternatel, Inc., G.F.G. Enterprises, also d/b/a Mystic Prepaid; Telecom Express, Inc., Voice Distributors, Inc., Voice Prepaid, Inc., Moses Greenfield, Nickolas Gulakos, Lucas Friedlaender, and Frank Wendorff all agree that this Order does not entitle them individually or collectively to seek or to obtain attorney's fees as a prevailing party under the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended by Pub. L. 104-121, 110 Stat. 847, 863-64 (1996), and they further waive any rights to attorneys' fees that may arise under said provision of law.

9. This Order is remedial in nature and no portion of any payments paid herein shall be deemed or construed as payment of a fine, damages, penalty, or punitive assessment; and

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

ORDER

DEFINITIONS

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

1. **"Defendants"** means, individually, collectively or in any combination, Alternatel, Inc.; G.F.G. Enterprises, LLC, also d/b/a Mystic Prepaid; Voice Prepaid, Inc.; Voice Distributors, Inc.; Telecom Express, Inc.; Moses Greenfield; Nickolas Gulakos; Lucas Friedlaender; and Frank Wendorff, as well as their successors and assigns.

2. **"Individual Defendants"** means, individually, collectively or in any combination, Moses Greenfield, Nickolas Gulakos, Lucas Friedlaender, and Frank Wendorff.

3. **"Corporate Defendants"** means, individually, collectively or in any combination, Alternatel, Inc.; G.F.G. Enterprises, LLC, also d/b/a Mystic Prepaid; Voice

Prepaid, Inc.; Voice Distributors, Inc.; Telecom Express, Inc.; as well as their successors and assigns.

4. **“Clear and prominent”** shall mean as follows:

A. In any print advertisement, marketing material, promotional material (including all Point-of-Sale Materials), packaging, label, or instructional manuals, the disclosure shall be (1) in a type size and location sufficiently noticeable for an ordinary consumer to read and comprehend it, and (2) in print that contrasts with the background against which it appears.

B. In any advertisement, marketing material, promotional material, or other representation to a consumer communicated through an electronic medium (including, but not limited to, television, video, radio, and interactive media such as the Internet and online services), the disclosure shall be presented simultaneously in both the audio and video portions of the advertisement. *Provided, however,* that in any representation to a consumer presented solely through video or audio means, the disclosure may be made through the same means in which the relevant claim is presented. The audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. The video disclosure shall be of a size and shade, and shall appear on the screen for a duration sufficient for an ordinary consumer to read and comprehend it. In addition to the foregoing, in interactive media the disclosure shall also be unavoidable and shall be presented prior to the consumer incurring any financial obligation.

C. On the Prepaid Calling Card and its packaging, the disclosure shall be (1) in a type size and location sufficiently noticeable for an ordinary consumer to read and comprehend it, and (2) in print that contrasts with the background against which it appears.

D. Whatever the medium, the disclosure shall be in understandable language and syntax. Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be

used in any advertisement, marketing material, Prepaid Calling Card, label, or packaging, or other representation to a consumer.

5. **“Material Limitations”** means any information or fact which is likely to affect a consumer’s choice of, or conduct regarding, a product or service.

6. **“PIN”** means a unique personal identification number assigned to a Prepaid Calling Card to access the value of the Prepaid Calling Card.

7. **“Point-of-Sale Material”** means any poster, sign, bulletin, advertisement, “take one” card, hang-tag, tear-away, or other promotional material that is displayed at a location where a Prepaid Calling Card is sold; such locations include, but are not limited to, stores, kiosks, and vending machines, as well as online points of sale.

8. **“Prepaid Calling Card”** means a card or other means that can be used to make one or more telephone calls that is or are paid for prior to placing the telephone call.

9. **“Talk Minutes”** means the number of calling minutes actually delivered by a Prepaid Calling Card to a particular destination.

10. **“Document”** is synonymous in meaning and equal in scope to the usage of the term in the Federal Rule of Civil Procedure 34(a), and includes writing, drawings, graphs, charts, Internet sites, Web pages, Web sites, electronically-stored information, including e-mail and instant messages, photographs, audio and video recordings, contracts, accounting data, advertisements (including, but not limited to, advertisements placed on the World Wide Web), FTP Logs, Server Access Logs, USENET Newsgroup postings, books, written or printed records, handwritten notes, telephone logs, telephone scripts, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, computer records, and other data stored in any medium from which information can be obtained and translated. A draft or non-identical copy is a separate document within the meaning of the term.

CONDUCT PROHIBITIONS

I

IT IS HEREBY ORDERED that Defendants, directly or indirectly through any parent, subsidiary, distributor, affiliate, or other device, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, in connection with the marketing, advertising, promotion, distribution, offer for sale, or sale of Prepaid Calling Cards, are hereby permanently restrained and enjoined from falsely representing, expressly or by implication, the Talk Minutes provided by a Prepaid Calling Card.

II

IT IS FURTHER ORDERED that Defendants, directly or indirectly through any parent, subsidiary, affiliate, agent, or other device, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, in connection with the marketing, advertising, promotion, distribution, offer for sale, or sale of Prepaid Calling Cards and in connection with every representation, expressly or by implication, regarding the specific value (*e.g.* \$2) of a Prepaid Calling Card, the Talk Minutes provided by a Prepaid Calling Card, and/or the per minute rates applicable for a Prepaid Calling Card, are hereby permanently restrained and enjoined from failing to make a clear and prominent disclosure of all Material Limitations, including, but not limited to, a clear and prominent disclosure of the following, if applicable:

- A. That the number of Talk Minutes is only available on a single call, to the extent Talk Minutes are advertised;
- B. The existence and amount of all fees or charges of any type, including, but not limited to, maintenance fees, weekly fees, monthly fees, connection fees, hang-up fees,

payphone fees, cell phone fees, access number fees, and when and under what circumstances such fees or charges will apply when using a Prepaid Calling Card;

- C. Any limit on the period of time during which: (1) the number of advertised Talk Minutes is available; or (2) the advertised per minute rates are available; and
- D. When a Prepaid Calling Card expires.

MONETARY JUDGMENT

III

IT IS FURTHER ORDERED that:

- A. Judgment in the amount of \$2,250,000.00 is hereby entered jointly and severally against Defendants.
- B. Prior to or concurrently with the execution of this Order by Defendants and the Commission (but no later than January 5, 2009), Defendants shall cause \$750,000.00 of the sum in Section III.A to be transferred to an interest-bearing account and/or interest-bearing trust account. The sole signatory on the account shall be Peter Homer of HomerBonner, P.A. the Escrow Agent ("Escrow Agent"), who shall hold the entire sum for no purpose other than payment to the Commission upon entry of this Order by the Court.
- C. Within one (1) business day of the date of entry of this Order, the Escrow Agent shall transfer the amount specified in Paragraph III.B to the FTC in accordance with directions provided by the Commission.
- D. Within fifteen (15) days after the entry of this Order, but no sooner than May 1, 2009, Defendants shall cause the remaining \$1,500,000.00 of the sum in Section III.A to be

wire transferred directly to the Commission in accordance with directions provided by the Commission.

- E. As security for the payment required by Section III.D, Defendants, individually and on behalf of their respective successors, assigns, and all other related persons and entities reflected on the title of, or otherwise asserting a lien, mortgage, deed of trust, assignment, pledge, security interest, or other interest in the real and/or personal property described in Attachment A to this Order (collectively, the "Related Parties"), hereby grant to the Commission liens on and security interests in the real and/or personal property described in Attachment A to this Order, together with all dwelling houses, other structures, improvements, appurtenances, hereditaments, and other rights appertaining or belonging thereto, or which hereafter may be added or attached thereto, and all replacements, substitutions therefor or thereto, and proceeds thereof, whether presently existing or hereafter arising (collectively, the "Collateral"); *provided, however,* that Attachment A to this Order shall be filed under seal.

Defendants represent and acknowledge that the Commission is relying on the material representations that the Defendants and/or the Related Parties are the sole owners in fee simple of the Collateral, title to the Collateral is marketable, and the Collateral currently is not encumbered by any other lien, mortgage, deed of trust, assignment, pledge, security interest or other interest except as set forth in Attachment A to this Order. Defendants agree, individually and on behalf of the Related Parties, to subordinate any liens, mortgages, deeds of trusts, assignments, pledges, security interests or other interests that Defendants, individually or through or on behalf of any Related Parties, have in the Collateral to the liens and security interests granted herein

to the Commission. Defendants further agree, individually and on behalf of the Related Parties, that as of the date on which they sign this Order they shall refrain from transferring, converting, encumbering, selling, assigning, or otherwise disposing of the Collateral, except with the express prior written permission of counsel for the Commission.

Defendants, individually and on behalf of the Related Parties, shall cooperate fully with the Commission and be responsible (at their expense, through counsel acceptable to the Commission) for preparing, executing, and recording the necessary instruments and documents, including but not limited to financing statements and continuation statements, doing whatever else the Commission deems necessary or desirable to perfect, evidence, and continue its liens on and security interest in the Collateral, and paying all related fees and costs, including but not limited to attorney's fees and filing fees. Not later than January 5, 2009, Defendants and the Related Parties shall prepare (at their expense, through counsel acceptable to the Commission), execute, and deliver to the Commission mortgages, security agreements, UCC-1 financing statements, and other documents in form and substance satisfactory to the Commission, record such documents (at their expense, through counsel acceptable to the Commission), and take such other steps as the Commission deems necessary or desirable to perfect and evidence its liens on and security interests in the Collateral and to carry out the purposes of this Order. Upon Defendants' timely and complete satisfaction of the payment required by Section III.D, at Defendants' written request, the Commission agrees to release the liens and security interests granted herein and Defendants shall be responsible for preparing and filing (at their expense) termination or other statements

reasonably required in connection therewith. The Commission shall also promptly release such liens and security interests to the extent necessary to permit the sale or encumbrance of part or all of the Collateral if the proceeds of such sale or financing are remitted directly to the Commission immediately upon closing of sale or financing in partial or complete satisfaction of Section III.D of this Order and Defendants shall pay all fees and costs related to such release, including but not limited to attorney's fees and filing fees. Defendants shall be responsible for paying all fees and costs relating to the preparation, execution, delivery, filing, recording, continuation, and termination of the liens and security interests granted herein, including but not limited to limited attorney's fees and filing fees.

F. All funds paid to the FTC pursuant to the Order shall be deposited into an account administered by the FTC or its agent to be used for equitable relief, including but not limited to consumer redress, and any attendant expenses for the administration of such equitable relief. 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 Defendants' practices alleged in the complaint. Any funds not used for such equitable relief shall be deposited to the United States Treasury as disgorgement. The Defendants shall have no right to challenge the Commission's choice of remedies under this Paragraph. The Defendants shall have no right to contest the manner of distribution chosen by the Commission.

G. Defendants relinquish all dominion, control, and title to the funds paid pursuant to this

Order to the fullest extent permitted by law. Defendants shall make no claim to or demand return of the funds, directly or indirectly, through counsel or otherwise.

- H. Without any admission of liability, Defendants agree that the facts as alleged in the Complaint filed in this action shall be taken as true without further proof in any bankruptcy case or subsequent civil litigation pursued by the Commission to enforce its rights to any payment or money judgment pursuant to this Order, including but not limited to a nondischargeability complaint in any bankruptcy case. Defendants further stipulate and agree that the facts alleged in the Complaint establish all elements necessary to sustain an action pursuant to, and that this Order shall have collateral estoppel effect for purposes of, Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A).

COMPLETION OF TEMPORARY MONITORSHIP

IV

IT IS FURTHER ORDERED that the Court-Appointed Temporary Monitor, Jane W. Moscovitz, Esq., is directed to, within ten (10) business days of this Order, unless good cause is shown to extend the temporary monitorship beyond ten (10) business days, file and serve on the parties a final request for fees and expenses. Upon this Court's Order for final payment from the assets of the Corporate Defendants, the temporary monitorship shall terminate.

MONITORING BY THE DEFENDANTS

V

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry

of this Order, Defendants, in connection with the marketing, advertising, promotion, distribution, offer for sale, or sale of Prepaid Calling Cards, are hereby restrained and enjoined from failing to:

- A. Obtain contact information from all distributors, sub-distributors, or retailers who purchase Prepaid Calling Cards directly from Defendants. In the case of a natural person, Defendants shall obtain the first and last name, physical address, and telephone number of any such distributor or retailer. In the case of a business entity, Defendants shall obtain the first and last name, physical address, and telephone number of the natural person who owns, manages, or controls the distributor or retailer;
- B. Direct all distributors or sub-distributors who purchase Prepaid Calling Cards directly from Defendants to: (i) promptly provide Point-of-Sale Materials that comply with the terms and conditions of this Order, when such materials are provided by Defendants, to the sub-distributors of the distributors or retail accounts of the sub-distributors; and (ii) instruct their sub-distributors or retail accounts to remove expired Point-of-Sale Materials on a prompt and timely basis, or, in the case of sub-distributors, to direct the sub-distributors to instruct their retail accounts to remove expired Point-of-Sale Materials on a prompt and timely basis;
- C. Direct all retailers who purchase Prepaid Calling Cards directly from Defendants to remove expired Point-of-Sale Materials on a prompt and timely basis;
- D. Establish, implement, and thereafter maintain a procedure for disseminating new Point-of-Sale Materials and Prepaid Calling Cards that comply with the provisions of this Order ("Compliant Materials") to all distributors, sub-distributors, and retailers of Defendants' Prepaid Calling Cards before the prior Compliant Materials expire;
- E. Establish, implement, and thereafter maintain a procedure for directing that all retailers of Defendants' Prepaid Calling Cards (1) display in a visible and conspicuous manner new

Compliant Materials at the time they receive them; and (2) discard expired Compliant Materials at the time they receive the new Compliant Materials;

- F. To the extent permitted by applicable law, terminate, immediately, any direct distributor or sub-distributor of Defendants' Prepaid Calling Cards that Defendants reasonably conclude has failed to (1) promptly offer Point-of-Sale Materials that comply with the terms and conditions of this Order to such distributor's sub-distributors or retail accounts, (2) direct such distributor's retail accounts to remove expired Point-of-Sale Materials, or (3) direct the sub-distributors of such distributor to direct the sub-distributor's retail accounts to remove expired Point-of-Sale Materials;
- G. To the extent permitted by applicable law, terminate, immediately, any retailer that purchases Prepaid Calling Cards directly from Defendants where Defendants reasonably conclude that such retailer has failed to promptly discard expired Point-of-Sale Materials;
- H. Establish, implement, and thereafter maintain a procedure for routinely monitoring the Talk Minutes and/or per minute rates, fees, and/or charges provided by and/or assessed by the applicable telecommunications carriers ("Carriers") to ensure that such Talk Minutes, per minute rates, and fees and/or charges are accurately disclosed to consumers on Prepaid Calling Cards or marketing material for such cards throughout the time period they are in effect, including, but not limited to:
1. obtaining in writing from the applicable Carrier the number of Talk Minutes and/or per minute rates and fees and/or charges prior to the dissemination of any Compliant Materials and the date up to which the number of Talk Minutes, per minute rates, and fees and/or charges will be in effect;
 2. testing a random sample of Prepaid Calling Cards to confirm that: (a) the number of Talk Minutes represented to consumers are actually delivered; and (b) any

fees and/or charges imposed on consumers are identical to the fees and charges represented to consumers;

3. obtaining and analyzing a random sample of call detail records from the Carrier to confirm that: (a) the number of Talk Minutes represented to consumers are actually delivered; and (b) any fees and/or charges imposed on consumers are identical to the fees and charges represented to consumers; and
 4. obtaining in writing from the Carrier any changes to the per minute rates, number of Talk Minutes, fees, or charges and the time period those changes are in effect; and
 5. maintaining complete and accurate written records of all of the foregoing, including any records of discrepancies between the number of Talk Minutes, per minute rates, and/or fees or charges represented to consumers and what is actually delivered and/or assessed by the Carrier.
- I. Take reasonable steps to remedy the failure of any Carrier to provide accurate, sufficient, or timely information necessary for Defendants to comply with the monitoring provisions of this Order, including, but not limited to, terminating the relationship with any such Carrier to the extent that termination is permitted by applicable law;
 - J. Establish, implement, and thereafter maintain a procedure for ensuring that Compliant Materials and website representations: (1) reflect the accurate per minute rates, number of Talk Minutes, and all fees and/or charges; and (2) contain clear and prominent disclosures of all Material Limitations;
 - K. Notify the Carrier in writing of any complaints Defendants receive, through any source, regarding the (1) alleged failure of a Prepaid Calling Card to provide the advertised number of Talk Minutes or (2) imposition on a consumer of allegedly undisclosed or

inadequately disclosed fees or charges;

- L. Require the Carrier to provide copies or other written notice of any complaints the Carrier receives, through any source, regarding the (1) alleged failure of a Prepaid Calling Card to provide the advertised number of Talk Minutes or (2) imposition on a consumer of undisclosed or inadequately disclosed fees or charges; and
- M. Require the Carrier to provide a written explanation in response to all such complaints.

COMPLIANCE MONITORING

VI

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

- A. Within fourteen (14) business days of receipt of written notice from a representative of the Commission, Defendants each shall submit additional written reports, which are true and accurate and sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and provide entry during normal business hours to any business location in each Defendant'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 court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, 45 and 69;
 - 2. posing as consumers and suppliers to Defendants, their employees, or any other entity managed or controlled in whole or in part by any Defendant, without the necessity of identification or prior notice; and

- C. Defendants 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)).

COMPLIANCE REPORTING BY DEFENDANTS

VII

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, the Individual Defendants shall notify the Commission of the following:
1. Any changes in residence, mailing addresses, and telephone numbers of the Individual Defendant within ten (10) days of the date of such change;
 2. Any changes in such Defendant's employment status (including self-employment), and any change in such Defendant's ownership in any business entity, within ten (10) business days of the date of such change. Such notice shall include the name and address of each business that such Defendant has become affiliated with, employed by, has created or formed, or performed services for; a detailed description of the nature of the business; and a detailed description of such Defendant's duties and responsibilities in connection with the business or

employment; and

3. Any change in such Defendant's name or use of any aliases or fictitious names; and

B. Defendants shall notify the Commission of any changes in corporate structure of any Corporate Defendant, or any entity that any Defendant directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under this Order, including but not limited to: incorporation or other organization; a dissolution, assignment, sale, merger, or other action; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; or a change in the business name or address, at least thirty (30) days prior to such change, provided that, with respect to any proposed change in the business entity about which a Defendant learns less than thirty (30) days prior to the date such action is to take place, such Defendant shall notify the Commission as soon as is practicable after obtaining such knowledge.

C. One hundred eighty (180) days after the date of entry of this Order and annually thereafter for a period of five (5) years, Defendants each shall provide a written report to the FTC, which is true and accurate and sworn to under penalty of perjury, setting forth in detail the manner and form in which they have complied and are complying with this Order. This report shall include, but not be limited to:

1. For each Individual Defendant:
 - a. such Defendant's then-current residence address, mailing addresses, and telephone numbers;
 - b. such Defendant's then-current employment status (including self-employment), including the name, addresses, and telephone numbers

of each business that such Defendant is affiliated with, employed by, or performs services for; a detailed description of the nature of the business; and a detailed description of such Defendant's duties and responsibilities in connection with the business or employment; and

- c. any other changes required to be reported under Subsection A of this Section.

2. For all Defendants:

- a. A copy of each acknowledgment of receipt of this Order, obtained pursuant to the Section titled "Distribution of Order;" and
- b. Any other changes required to be reported under Subsection A of this Section.

D. Each Defendant shall notify the Commission of the filing of a bankruptcy petition by such Defendant within fifteen (15) days of filing.

E. For the purposes of this Order, Defendants 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
600 Pennsylvania Avenue, NW
Washington, DC 20580
Re: FTC v. Alternatel, Inc., et al., No. 08-21433-CIV-McAliley/Jordan (S.D. Fla.)

Provided that, in lieu of overnight courier, Defendants may send such reports or notifications by first-class mail, but only if Defendants contemporaneously send an electronic version of such report or notification to the Commission at: DEBrief@ftc.gov.

F. For purposes of the compliance reporting and monitoring required by this Order, the

Commission is authorized to communicate directly with each Defendant.

RECORD KEEPING PROVISIONS

VIII

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry of this Order, Defendants, in connection with the marketing, advertising, promotion, distribution, offer for sale, or sale of Prepaid Calling Cards, and their agents, employees, officers, and corporations, 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 generated, and the disbursement of such revenues;
- B. Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by such business, 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;
- C. Customer files containing the names, addresses, phone numbers, dollar amounts paid, quantity of items or services purchased, and description of items or services purchased, to the extent such information is obtained in the ordinary course of business;
- D. Complaints and refund requests (whether received directly, indirectly, or through any third party) and any responses to those complaints or requests;
- E. Copies of all sales scripts, training materials, and advertisements or other marketing materials, including but not limited to, Point-of-Sale Materials, newspaper advertisements, radio or television advertisements, websites, e - mail messages, instant messages, Internet "pop-up" advertisements, Internet banner advertisements. Such marketing materials

must be maintained in the size and color in which they were created, disseminated, or used;

- F. Exemplars of all types, brands, and versions of Prepaid Calling Cards sold (both the front and back of the card, as well as any “hang-tag” or “tear-off” portion of such cards), in the size and color and in which card was sold;
- G. Copies of all rate decks, call logs, and other documents that reflect the advertised Talk Minutes and/or per minute rates, if applicable, the advertised fees and charges, and the actual delivered number of Talk Minutes and/or per minute rates and actual fees and charges, for each Prepaid Calling Card sold; and
- H. All records and documents necessary to demonstrate full compliance with each provision of this Order, including but not limited to, copies of acknowledgments of receipt of this Order required by the Sections titled “Distribution of Order” and “Acknowledgment of Receipt of Order” and all reports submitted to the FTC pursuant to the Section titled “Compliance Reporting.”

DISTRIBUTION OF ORDER BY THE DEFENDANTS

IX

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Order, Defendants shall deliver copies of the Order as directed below:

- A. Corporate Defendant: Each Corporate Defendant must deliver a copy of this Order to:
 - 1. (a) All of its principals, officers, directors, and managers; (b) all of its employees, agents, and representatives who engage in conduct related to the subject matter of the Order; (c) all of its telecommunications carriers; and (d) any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled “Compliance Reporting.” For current personnel, delivery shall be within

five (5) days of service of this Order upon such Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities. For any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled "Compliance Reporting," delivery shall be at least ten (10) days prior to the change in structure; and

2. All of its distributors, sub-distributors, or retailers who purchase Prepaid Calling Cards directly from the defendant.

B. Individual Defendant as Control Person: For any business that an Individual Defendant controls, directly or indirectly, or in which such Defendant has a majority ownership interest, such Defendant must deliver a copy of this Order to:

1. (a) All of its principals, officers, directors, and managers; (b) all of its employees, agents, and representatives who engage in conduct related to the subject matter of the Order; (c) all of its telecommunications carriers; and (d) any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled "Compliance Reporting." For current personnel, delivery shall be within five (5) days of service of this Order upon such Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities. For any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled "Compliance Reporting," delivery shall be at least ten (10) days prior to the change in structure; and
2. All of its distributors, sub-distributors, or retailers who purchase Prepaid Calling Cards directly from the defendant.

C. Individual Defendant as Employee or Non-Control Person: For any business where an Individual Defendant is not a controlling person of a business but otherwise engages in

conduct related to the subject matter of this Order, such Defendant must deliver a copy of this Order to all principals and managers of such business before engaging in such conduct.

- D. From all persons or entities receiving a copy of the Order pursuant to Sections IX.A.1, IX.B.1, and IX.C, Defendants must secure a signed and dated statement acknowledging receipt of the Order within thirty (30) days of delivery.

**ACKNOWLEDGMENT OF RECEIPT OF ORDER
BY THE DEFENDANTS**

X

IT IS FURTHER ORDERED that each Defendant, within five (5) business days of receipt of this Order as entered by the Court, must submit to the Commission a truthful sworn statement acknowledging receipt of this Order.

RETENTION OF JURISDICTION

XI

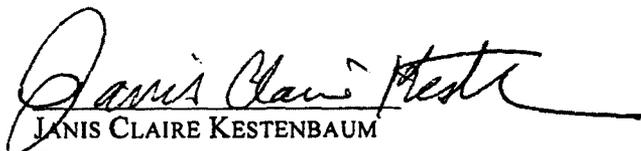
IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order. *This case is closed.*

SO ORDERED, this 10th day of February, 2009, at Miami, Florida.

Adalberto Jordan

JUDGE ADALBERTO JORDAN

Stipulated and agreed to by:



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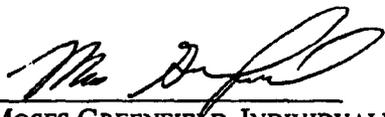
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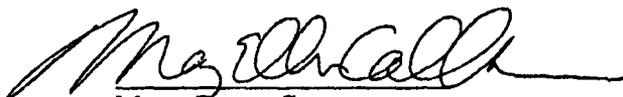
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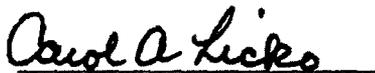
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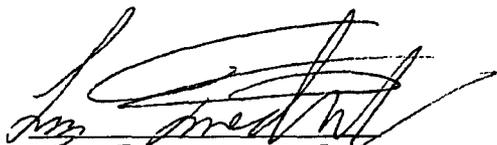
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