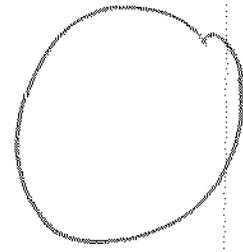


ER



UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

FEDERAL TRADE COMMISSION, STATE OF ILLINOIS, STATE OF IOWA, STATE OF NEVADA, STATE OF NORTH DAKOTA, STATE OF NORTH CAROLINA, STATE OF OHIO, and STATE OF VERMONT,

*Plaintiffs,*

v.

YOUR MONEY ACCESS, LLC, YMA COMPANY, LLC, DERRELLE JANEY, and TARZENE DIXON,

*Defendants.*

CIVIL NO. 07-5147

STIPULATED PERMANENT  
INJUNCTION AND FINAL ORDER AS  
TO TARZENE DIXON.

FILED

JAN 11 2010

MICHAEL J. WENZ, Clerk  
Dep. Clerk

Plaintiffs, the Federal Trade Commission ("FTC" or the "Commission"), and the States of Illinois, Iowa, Nevada, North Dakota, North Carolina, Ohio, and Vermont, by and through their respective Attorneys General ("Plaintiff States") (collectively, "Plaintiffs"), have filed a Complaint against Defendants Your Money Access, LLC, d/b/a Universal Payment Solutions, Netchex Corp., Check Recovery Systems, Inc., Subscription Services, Ltd., and Nterglobal Payment Solutions; YMA Company, LLC; Tarzene Dixon ("Defendant Dixon"); and Derrelle Janey (collectively, "Defendants"), for a permanent injunction and other equitable relief in this action, pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b; the Telemarketing and Consumer Fraud and Prevention Act ("Telemarketing Act"), 15 U.S.C. §§ 6101, *et seq.*; the FTC's Telemarketing Sales Rule ("TSR"), 16 C.F.R. Part 310; the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS §§ 505/1 *et seq.* (West 2006); the Iowa Consumer Fraud Act, Iowa Code §714.16; the

Deceptive Trade provisions of NRS Chapter 598; the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. § 75-1.1, *et seq.*; the North Dakota Century Code Ch. 54-12 and 15 U.S.C. § 6103; the Ohio Consumer Sales Practices Act, R.C. 1345.01 *et seq.*; and the Vermont Consumer Fraud Act, Title 9 Vt. Stat. Ann. Ch. 63. Plaintiffs and Defendant Dixon, by and through their counsel, hereby stipulate to the entry of, and request the Court to enter, this Stipulated Permanent Injunction and Final Order (“Order”), to resolve all matters of dispute between them in this action.

**IT IS HEREBY STIPULATED, AGREED, AND ORDERED** as follows:

1. This Court has jurisdiction over the subject matter and parties in this case.
2. Venue is proper as to all parties in the Eastern District of Pennsylvania pursuant to 15 U.S.C. §§ 53(b) and 6103(e), and 28 U.S.C. §§ 1391(b) and (c).
3. The activities of Defendant Dixon are in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
4. The facts that Plaintiffs have stated in their Complaint, if true, would state a claim upon which relief may be granted pursuant to the Federal Trade Commission Act, 15 U.S.C. §§ 45(a), 53(b) and 57b; the Telemarketing Act, 15 U.S.C. §§ 6101 *et seq.*; the TSR, 16 C.F.R Part 310; the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS §§ 505/1 *et seq.* (West 2006); the Iowa Consumer Fraud Act, Iowa Code Section 714.16; the Deceptive Trade provisions of NRS Chapter 598; the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. §75-1.1, *et seq.*; the North Dakota Century Code Ch. 54-12 and 15 U.S.C. § 6103; the Ohio Consumer Sales Practices Act, R.C. 1345.01 *et seq.*; and the Vermont Consumer Fraud Act, Title 9 Vt. Stat. Ann. Ch. 63.
5. Defendant Dixon has entered into this Order freely and without coercion, and

Defendant Dixon acknowledges that she has read the provisions of this Order, understands them, and is prepared to abide by them.

6. Plaintiffs and Defendant Dixon, by and through their counsel, have agreed that the entry of this Order resolves all matters in dispute between them arising from the Complaint in this action, up to the date of entry of this Order. This Order is for settlement purposes only and does not constitute an admission by Defendant Dixon of any violation of law or that Defendant engaged in the conduct alleged in the Complaint.

7. Defendant Dixon waives all rights to seek appellate review or otherwise challenge or contest the validity of this Order. Defendant Dixon further waives and releases any claim she may have against Plaintiffs, their employees, representatives, or agents.

8. Defendant Dixon agrees that this Order does not entitle her to seek or to obtain attorneys' fees as a prevailing party under the Equal Access to Justice Act, 28 U.S.C. § 2412, and Defendant Dixon further waives any rights to attorneys' fees that may arise under said provision of law.

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

### ORDER

#### DEFINITIONS

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

1. "Order" means this Stipulated Permanent Injunction and Final Order.
2. "Payment Processing" means directly or indirectly providing a merchant or person with the access or means to access any consumer's bank account or credit card account through the use of any payment mechanism, including, but not limited to, remotely created checks, Automated Clearing House (ACH) Debits, and credit card transactions. Payment Processing

may include, among other things: the performance of any function of collecting, preparing, formatting, charging, or transmitting consumer bank account or credit card data for use in connection with the debiting, charging, or accessing of a consumer's bank or credit card account; monitoring, tracking, and reconciling payments, returns, and charge-backs; providing pre-authorization, post-authorization, and refund services to merchants; and disbursing funds or receipts to merchants.

3. "Remotely Created Check" means any check not created by the paying bank and not bearing a signature applied (or purporting to be applied) by the person on whose account the check is drawn, and shall be construed to include (without limitation) instruments known as demand drafts, bank drafts, telechecks, or bank checks.

4. "Seller" means any person who, in connection with a telemarketing transaction, provides, offers to provide, or arranges for others to provide goods or services to the customer in exchange for consideration.

5. "Telemarketer" means any person who, in connection with telemarketing, initiates or receives telephone calls to or from a customer or donor.

6. "Telemarketing" means any business activity (whether or not covered by the Telemarketing Sales Rule, 16 C. F. R. Part 310, including, but not limited to, initiating or receiving telephone calls) which involves attempts to induce consumers to purchase any investment, item, good, service, partnership interest, trust interest or other beneficial interest, or to enter a contest for a prize, by means of telephone sales presentations, either exclusively or in conjunction with the use of other forms of marketing.

7. "Telemarketing Sales Rule" or "TSR" means the Federal Trade Commission's Telemarketing Sales Rule, 16 C.F.R. Part 310.

8. "Consumer Protection Laws of Plaintiff States" means the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS §§ 505/1 *et seq.* (West 2006); the Iowa Consumer Fraud Act, Iowa Code §714.16; the Deceptive Trade provisions of NRS Chapter 598; the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. § 75-1.1, *et seq.*; the North Dakota Century Code Ch. 54-12 and 15 U.S.C. § 6103; the Ohio Consumer Sales Practices Act, R.C. 1345.01 *et seq.*; and the Vermont Consumer Fraud Act, Title 9 Vt. Stat. Ann. Ch. 63.

9. The words "and" and "or" shall be understood to have both conjunctive and disjunctive meanings.

I.

**PROHIBITED CONDUCT**

**IT IS THEREFORE ORDERED** that Defendant Dixon, whether acting directly or through any person, corporation, trust, limited liability company, or other business entity or device, is hereby permanently restrained and enjoined from Payment Processing.

II.

**INJUNCTION ON PROVIDING ASSISTANCE TO TELEMARKETERS**

**IT IS FURTHER ORDERED** that Defendant Dixon, and those persons in active concert or participation with her who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any person, corporation, trust, limited liability company, or other business entity or device, are permanently restrained and enjoined from providing substantial assistance or support to any seller or telemarketer, when Defendant Dixon knows, or consciously avoids knowing, that the seller or telemarketer is engaged in a deceptive or abusive act or practice prohibited by the Telemarketing Sales Rule.

**III.**

**COOPERATION PROVISION**

**IT IS FURTHER ORDERED** that Defendant Dixon shall, in connection with this action or any subsequent investigations related to, or associated with, the transactions or the occurrences that are the subject of the Plaintiffs' Complaint, cooperate in good faith with each Plaintiff and any other governmental agency or entity, and appear at such places and times as any Plaintiff or any other governmental agency or entity shall reasonably request, after written notice, for interviews, conferences, pretrial discovery, review of documents, and for such other matters as may be reasonably requested by any Plaintiff or any other governmental agency or entity. If requested in writing by any Plaintiff or any other governmental agency or entity, Defendant Dixon shall appear and provide truthful testimony in any trial, deposition, or other proceeding related to, or associated with, the transactions or the occurrences that are the subject of the Complaint, without the service of a subpoena upon her.

**IV.**

**MONETARY JUDGMENT AND RIGHT TO REOPEN**

**IT IS FURTHER ORDERED** that:

A. Judgment in the amount of twenty two million twenty eight thousand ninety four dollars and eighteen cents (\$22,028,094.18) is hereby entered against Defendant Dixon. Based upon Defendant Dixon's sworn representations in her sworn financial statement and supporting documents as described in subparagraph B of this Section, enforcement of the foregoing monetary judgment is stayed, subject to the conditions set forth in subparagraph B of this Section and contingent upon the accuracy and completeness of the financial statement and supporting documents described in subparagraph B of this Section;

B. Plaintiffs' agreement to, and the Court's entry of, this Order are expressly premised upon the truthfulness, accuracy, and completeness of the sworn financial statements and supporting documents provided to the Commission by Defendant Dixon, dated June 18, 2008, and supplemented by letter dated July 11, 2008 and declaration dated October 8, 2009, which contain material information upon which Plaintiffs relied in negotiating and agreeing to the terms of this Order. If, upon motion by Plaintiff(s), this Court finds that Defendant Dixon failed to disclose any material asset or materially misstated the value of any asset in the financial statements and related documents described above, or made any other material misstatement or omission in the financial statements and related documents described above, then this Order shall be reopened and the stay of enforcement of the judgment shall be lifted for the purpose of enforcing the full amount of the judgment of twenty two million twenty eight thousand ninety four dollars and eighteen cents (\$22,028,094.18), less the sum of any amounts paid by any other Defendant in this action. *Provided, however,* that in all other respects this Order shall remain in full force and effect, unless otherwise ordered by the Court. Solely for the purposes of reopening or enforcing this Section, Defendant Dixon waives any right to contest any of the allegations set forth in the Complaint filed in this matter;

C. In accordance with 31 U.S.C. § 7701, Defendant Dixon is hereby required, unless she has done so already, to furnish to the Commission all taxpayer identifying numbers, including Social Security and employer identification numbers, which shall be used for purposes of collecting and reporting on any delinquent amount arising out of Defendant Dixon's relationship with Plaintiffs;

D. Defendant Dixon agrees that the facts as alleged in the Complaint filed in this action shall be taken as true solely for the purpose of a nondischargeability complaint in any

bankruptcy case; and

E. Proceedings instituted under this Section are in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including any other proceedings that Plaintiffs may initiate to enforce this Order.

V.

**COMPLIANCE MONITORING**

**IT IS FURTHER ORDERED** that, for the purpose of monitoring and investigating compliance with any provision of this Order:

A. Within fifteen (15) days of receipt of written notice from a representative of any Plaintiff, Defendant Dixon shall submit additional written reports, sworn to under penalty of perjury; produce documents for inspection and copying; appear for depositions; and/or provide entry during normal business hours to any business location in Defendant Dixon's possession or direct or indirect control to inspect the business operation;

B. In addition, Plaintiffs are 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, and 45; and

2. Posing as consumers and suppliers to: Defendant Dixon; employees of Defendant Dixon; or any other entity managed or controlled in whole or in part by Defendant Dixon, without the necessity of identification or prior notice.

C. Defendant Dixon shall permit representatives of any Plaintiff 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 and 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)).

*Provided, further,* that nothing in this Order shall limit any Plaintiff State's lawful use of compulsory process to obtain any documentary material, tangible things, testimony, or information relevant to acts or practices prohibited by the Consumer Protection Laws of Plaintiff States.

## VI.

### COMPLIANCE REPORTING

**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, Defendant Dixon shall notify Plaintiffs of the following:

(1) Any changes in her residence, mailing addresses, and telephone numbers, within ten (10) days of the date of such change;

(2) Any changes in her employment status (including self-employment), and any change in her ownership of any business entity, within ten (10) days of the date of such change. Such notice shall include the name and address of each business that she is affiliated with, employed by, creates or forms, or performs services for; a statement of the nature of the business; and a statement of her duties and responsibilities in connection with the business or

employment; and

(3) Any changes in her name or use of any aliases or fictitious names.

B. One hundred eighty (180) days after the date of entry of this Order, Defendant Dixon shall provide a written report to Plaintiffs, sworn to under penalty of perjury, setting forth in detail the manner and form in which she has complied and is complying with this Order. This report shall include, but not be limited to:

(1) Her then-current residence address, mailing addresses, and telephone numbers;

(2) Her then-current employment and business addresses and telephone numbers, a description of the business activities of each of her employer(s) or business(es), and her title and responsibilities, for each such employer or business;

(3) Any other changes required to be reported under subsection A of this Section;

(4) A copy of each acknowledgment of receipt of this Order, obtained pursuant to Section VIII; and

(5) Any other changes required to be reported under subsection A of this Section.

C. For the purposes of this Order, Defendant Dixon shall, unless otherwise directed by the Commission's authorized representatives, mail all written notifications to the Commission to:

Associate Director for Enforcement  
Federal Trade Commission  
Re: FTC v. Your Money Access, LLC, et al  
Civil Action No. 07-5147  
601 New Jersey Ave. NW

Washington, DC 20580;

and to Plaintiff States at the addresses shown on the signature pages hereto; and

D. For purposes of the compliance reporting and monitoring required by this Order, Plaintiffs are authorized to communicate directly with Defendant Dixon.

## VII.

### RECORD KEEPING PROVISIONS

**IT IS FURTHER ORDERED** that, for a period of eight (8) years from the date of entry of this Order, for any business that she controls, directly or indirectly, or in which she has a majority ownership interest, Defendant Dixon, her agents, employees, officers, corporations, successors, and assigns and those persons in active concert or participation with her who receive actual notice of this Order by personal service or otherwise, are permanently 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, advertisements, or other marketing materials; and

F. 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 Section VIII.

### VIII.

#### DISTRIBUTION OF ORDER

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

A. For any business that Defendant Dixon controls, directly or indirectly, or in which she has a majority ownership interest, Defendant Dixon must deliver a copy of this Order to all principals, officers, directors, and managers of that business. For current personnel, delivery shall be within ten (10) days of service of this Order upon Defendant Dixon. For new personnel, delivery shall occur prior to them assuming their responsibilities;

B. For any business engaged in telemarketing, Defendant Dixon must deliver a copy of this Order to all principals and managers of such business before providing substantial assistance or support to such business; and

C. Defendant Dixon must secure a signed and dated statement acknowledging receipt of the Order, within thirty (30) days of delivery, from all persons receiving a copy of this Order pursuant to this Section.

### IX.

#### ACKNOWLEDGMENT OF RECEIPT OF ORDER

**IT IS FURTHER ORDERED** that Defendant Dixon, within five (5) business days of

receipt of this Order as entered by the Court, must submit to Plaintiffs a truthful sworn statement acknowledging receipt of this Order.

X.

RETENTION OF JURISDICTION

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

XI.

SEVERABILITY

IT IS FURTHER ORDERED that the provisions of this Order are separate and severable from one another. If any provision is stayed or determined to be invalid, the remaining provisions shall remain in full force and effect.

XII.

ENTRY OF ORDER

IT IS FURTHER ORDERED that there is no just reason for delay, and the Clerk of the Court is hereby directed to enter this Order immediately.

SO ORDERED, this 11 day of January, 2010

Eduardo C. Robreno  
Eduardo C. Robreno  
United States District Judge

*Julio Martinez*  
*Dyfon*  
*Yvonne Lopez*  
*Paasch*

ENTERED  
JAN 11 2010  
CLERK OF COURT