

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

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UNITED STATES OF AMERICA,

Plaintiff,

v.

CHRISTOPHER ANDREW STERLING,
individually, and d/b/a sterlingvisa.com,
rebatedataprocessor.com, and
creditcardworker.com,

Defendant.

Case No. 12-CV-2736 (JAH) DHB

**STIPULATED FINAL JUDGMENT AND ORDER
FOR PERMANENT INJUNCTION, CIVIL PENALTIES AND MONETARY RELIEF**

THIS MATTER comes before the Court upon the stipulation of Plaintiff, the United States of America, and Defendant Christopher Andrew Sterling, d/b/a sterlingvisa.com, rebatedataprocessor.com, and creditcardworker.com. On November 9, 2012, the United States of America, acting upon notification and authorization to the Attorney General by the Federal Trade Commission (“FTC” or the “Commission”), filed a Complaint for Civil Penalties, Permanent Injunction and Other Equitable Relief (“Complaint”) in this matter, alleging violations of Section 5(a) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 45(a) and the FTC’s Trade Regulation Rule entitled “Disclosure Requirements and Prohibitions Concerning Business Opportunities,” 16 C.F.R. Part 437, as amended.

The United States and Defendant, having agreed to entry of this Stipulated Final Judgment and Order for Permanent Injunction and Civil Penalties (“Order”), hereby request that the Court enter this Order to resolve all matters in dispute in this action.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

FINDINGS

1. This Court has jurisdiction of the subject matter of this case and over the parties pursuant to 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355 and 15 U.S.C. §§ 45(m)(1)(a), 53(b), and 56(a).

2. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c), and 15 U.S.C. § 53(b).

3. The activities of Defendant, as alleged in the Complaint, are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

4. The Complaint states a claim upon which relief may be granted under Sections 5(a), 5(m)(1)(A), and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a), 45(m)(1)(A), and 53(b).

5. Defendant enters into this Order freely and without coercion. Defendant further acknowledges that he has read and is prepared to abide by the provisions of this Order.

6. Defendant waives all rights to seek judicial review or otherwise challenge or contest the validity of this Order. Defendant further waives and releases any claim he may have against the Commission and its employees, representatives and agents.

7. Each party shall bear its own costs and attorney fees. Defendant agrees that this Order does not entitle him to seek or to obtain attorney fees as a prevailing party under the Equal Access to Justice Act, 28 U.S.C. § 2412, *amended by* Pub. L. No. 104-121, 110 Stat. 847, 863-64 (1996), and Defendant further waives any rights to attorney fees concerning the prosecution of this action through the date of the entry of this Order.

8. Defendant neither admits nor denies any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendant admits the facts necessary to establish jurisdiction.

9. The parties agree, for purposes of facilitating resolution of this matter, that entry of this Order is in the public interest.

DEFINITIONS

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

1. **“Business Opportunity”** means a commercial arrangement in which:
 - (A) A seller solicits a prospective purchaser to enter into a new business; and
 - (B) The prospective purchaser makes a required payment; and
 - (C) The seller, expressly or by implication, orally or in writing, represents that the seller or one or more designated persons will:
 - (i) Provide locations for the use or operation of equipment, displays, vending machines, or similar devices, owned, leased, controlled, or paid for by the purchaser; or
 - (ii) Provide outlets, accounts, or customers, including, but not limited to, Internet outlets, accounts, or customers, for the purchaser’s goods or services; or
 - (iii) Buy back any or all of the goods or services that the purchaser makes, produces, fabricates, grows, breeds, modifies, or provides, including but not limited to providing payment for such services as, for example, stuffing envelopes from the purchaser’s home.
2. **“Defendant”** means Defendant Christopher Andrew Sterling, individually and d/b/a sterlingvisa.com, rebatedataprocessor.com, and creditcardworker.com.
3. **“FTC”** or **“Commission”** means the Federal Trade Commission.
4. **“Material”** means likely to affect a person’s choice of, or conduct regarding, opportunities, products or services.
5. **“Person”** means a natural person, organization, or other legal entity, including a corporation, partnership, proprietorship, association, cooperative, government or

governmental subdivision or agency, or any other group or combination acting as an entity.

7. “**Plaintiff**” means the United States.
8. “**Work-at-Home Opportunity**” means any good, service, plan, or program that is represented, expressly or by implication, to assist an individual in any manner to earn money while working from home or from locations other than the business premises of the Defendant, whether or not covered by the Business Opportunity Rule, 16 C.F.R. 437.
9. The words “**and**” and “**or**” shall be understood to have both conjunctive and disjunctive meanings.

ORDER

I.

BAN ON WORK-AT-HOME AND BUSINESS OPPORTUNITIES

IT IS ORDERED that the Defendant, whether acting directly or through any other person, corporation, partnership, subsidiary, division, agent, or other device, is permanently restrained and enjoined from:

- A. Advertising, marketing, promoting, offering for sale, or selling any Work-at-Home Opportunity or Business Opportunity; and
- B. Assisting others engaged in advertising, marketing, promoting, offering for sale, or selling any Work-at-Home Opportunity or Business Opportunity.

Nothing in this Order shall be read as an exception to this Section I.

II.

PROHIBITED REPRESENTATIONS

IT IS FURTHER ORDERED that, in connection with the marketing, advertising, promotion, offering for sale, or sale of any good, service, plan, or program, Defendant and his agents, servants, employees, and all other persons in active concert or participation with any of

them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any corporation, partnership, subsidiary, division, agent, or other device, are hereby permanently restrained and enjoined from misrepresenting, or assisting others in misrepresenting, expressly or by implication, any material fact, including but not limited to:

- A. The total cost to purchase, receive, or use, and the quantity of, the good, product, service, plan, or program;
- B. Any material restriction, limitation, or condition to purchase, receive, or use the good, product, service, plan, or program;
- C. Any material aspect of the benefits, performance, efficacy, nature, or characteristics of the product or service; and
- D. Any material aspect of the nature or terms of any refund, cancellation, exchange, or repurchase policy applicable to such good, product, service, plan, or program.

III.

PROHIBITED USE OF CUSTOMER LISTS

IT IS FURTHER ORDERED that Defendant, and his officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, are permanently restrained and enjoined from:

- A. disclosing, using, or benefitting from customer information, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), of any person which the Defendant obtained prior to entry of this Order in connection with the sale of any Work at Home Opportunity or Business Opportunity, and
- B. failing to dispose of such customer information in all forms in their possession, custody, or control within thirty (30) days after entry of this Order. Disposal shall be by

means that protect against unauthorized access to the customer information, such as by burning, pulverizing, or shredding any papers, and by erasing or destroying any electronic media, to ensure that the customer information cannot practicably be read or reconstructed.

Provided, however, that customer information need not be disposed of, and may be disclosed, to the extent requested by a government agency or required by a law, regulation, or court order.

IV.

CIVIL PENALTY

IT IS FURTHER ORDERED that judgment is hereby entered in favor of the United States and against Defendant, in the amount of Sixteen Thousand Dollars (\$16,000.00) as a civil penalty, pursuant to Section 5(m)(1)(A) of the Federal Trade Commission Act, 15 U.S.C. § 45(m)(1)(A); *provided, however,* that subject to the provisions of Section VI below, this judgment shall be suspended. The suspension of this judgment is based on Defendant's inability to pay and is expressly conditioned on the truthfulness of Defendant's financial disclosures described in Section VI, subparagraph A.

A. Defendant agrees that the judgment represents a civil penalty owed to the United States Government, is not compensation for actual pecuniary loss, and, therefore, as to the Defendant, it is not subject to discharge under the Bankruptcy Code pursuant to 11 U.S.C. § 523(a)(7).

V.

MONETARY RELIEF

IT IS FURTHER ORDERED that judgment is hereby entered in favor of the United States and against Defendant in the amount of \$69,289.06, as equitable monetary relief for consumer injury; *provided, however,* that subject to the provisions of Section VI below, this judgment shall be suspended. The suspension of this judgment is based on Defendant's inability to pay and is expressly conditioned on the truthfulness of Defendant's financial disclosures described in Section VI, subparagraph A.

A. Defendant agrees 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 or the United States 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. Defendant further stipulates and agrees that the facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order shall have collateral estoppel effect for such purposes.

VI.

RIGHT TO REOPEN

IT IS FURTHER ORDERED that

A. Plaintiff's agreement to, and the Court's approval of, this Order, including but not limited to the suspension of the monetary judgment against Defendant in the amount of \$16,000.00 in civil penalty and \$69,289.06 in equitable monetary relief, is expressly premised upon the truthfulness, accuracy, and completeness of Defendant's financial condition, as represented in the Financial Statement of Debtor form of Christopher Andrew Sterling dated February 12, 2013, the Supplement to Financial Statement of Debtor form dated February 26, 2012, and the supplemental affidavit by Andrew Sterling dated March 26, 2013, including all attachments and supplemental materials, all of which Plaintiff relied upon in negotiating and agreeing to the terms of this Order.

B. If, upon motion by Plaintiff, the Court finds that Defendant's Financial Statements failed to disclose any material asset, materially misrepresented the value of any asset, or made any other material misrepresentation or omission, the suspension shall be lifted on the civil penalty in Section IV above and the monetary judgment in Section V, above, and that judgment amount, less any payments already made by Defendant, shall be immediately due and payable. Upon such reinstatement of the civil penalty and monetary judgment, the Plaintiff shall be entitled to interest at the rate prescribed under 28 U.S.C. § 1961, as amended, on the unpaid balance. Plaintiff shall be permitted to execute on the judgment immediately after the suspension is lifted and engage in discovery in aid of execution.

Provided, however, that in all other respects, this Order shall remain in full force and effect, unless otherwise ordered by the Court; and,

Provided, further, the proceedings initiated 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 proceedings that the Commission may initiate to enforce this Order.

C. Upon such reinstatement of the judgment for equitable monetary relief identified in Section V above, all funds paid pursuant to Section V of this Order shall be deposited into a fund administered by the Commission or its agents to be used for equitable relief, including, but not limited to, redress to consumers, 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 the 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 Defendant's practices alleged in the Complaint. Any funds not used for such equitable relief shall be deposited to the United States Treasury as disgorgement. Defendant shall have no right to challenge the Commission's choice of remedies under this Paragraph. Defendant shall have no right to contest the manner of distribution chosen by the Commission.

D. No portion of any payment for equitable monetary relief pursuant to Section V and this Section VI shall be deemed a payment of any fine, penalty, or punitive assessment.

E. Defendant shall relinquish all dominion, control, and title to the funds paid pursuant to this Section VI to the fullest extent permitted by law. Defendant shall make no claim to or demand for return of the funds, directly or indirectly, through counsel or otherwise.

VII.

ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendant obtain acknowledgments of receipt of this Order.

A. Defendant, within seven (7) days of entry of this Order, must submit to Plaintiff and the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For five (5) years after entry of this Order, for any business that Defendant directly or indirectly controls or in which Defendant has a majority ownership interest, Defendant must deliver a copy of this Order to (1) all principals, officers, directors, and managers; and (2) all employees, agents, and representatives who participate in marketing, advertising, promotion, or sales; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven (7) days of entry of this Order for current personnel. To all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which Defendant delivered a copy of this Order, Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

VIII.

COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendant make timely submissions to the Commission:

A. One (1) year after entry of this Order, Defendant must submit a compliance report, sworn under penalty of perjury.

1. Defendant must: (a) designate at least one telephone number and an email, physical, and postal address as points of contact, which representatives of the

Commission and Plaintiff may use to communicate with Defendant; (b) identify all of Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the products and services offered, the means of advertising, marketing, and sales; (d) describe in detail whether and how Defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission;

2. Additionally, Defendant must: (a) identify all telephone numbers and all email, Internet, physical, and postal addresses, including all residences; (b) identify all titles and roles in all business activities, including any business for which such Defendant performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest; and (c) describe in detail such Defendant's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.

B. For 20 years following entry of this Order, Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. Defendant must report any change in: (a) any designated point of contact; or (b) the structure of any entity that Defendant has any ownership interest in or directly or indirectly controls that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

2. Additionally, Defendant must report any change in: (a) name, including aliases or fictitious names, or residence address; or (b) title or role in any business activity, including any business for which he performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest, and identify its name, physical address, and Internet address, if any.

C. Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or any similar proceeding by or against him within 14 days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____" and supplying the date, signatory's full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to

Associate Director for Enforcement, Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue NW
Washington, DC 20580

The subject line must begin United States v. Christopher Andrew Sterling, X130016.

F. For the purposes of this Order, Defendant shall, unless otherwise directed by a representative of Plaintiff, identify all written notifications to Plaintiff as provided in reference to DJ# 102-3783, and mail them to:

Director, Consumer Protection Branch
U.S. Department of Justice - Civil Division
P.O. Box 386,
Washington, D.C. 20044

IX.

RECORDKEEPING

IT IS FURTHER ORDERED that Defendant must create certain records for 20 years after entry of the Order, and retain each such record for five (5) years. Specifically, Defendant, for any business he directly or indirectly controls or of which he is a majority owner, must create and retain the following records:

- A. Accounting records showing the revenues from all goods or services sold, all costs incurred in generating those revenues, and the resulting net profit or loss;
- B. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's name, addresses, and telephone numbers; job title or position; dates of service; and, if applicable, the reason for termination;
- C. Complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response;
- D. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission; and
- E. A copy of each advertisement or other marketing material.

X.

COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendant's compliance with this Order, including the financial representations upon which part of the civil penalty and equitable monetary relief were suspended:

- A. Within fourteen (14) days of receipt of a written request from a representative of the Commission or Plaintiff, Defendant must submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents, for inspection and copying. The Commission and Plaintiff are also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.
- B. For matters concerning this Order, the Commission and Plaintiff are authorized to communicate directly with Defendant. Defendant must permit representatives of the Commission and Plaintiff to interview any employee or other person affiliated with Defendant who has agreed to such an interview. The person interviewed may have counsel present.
- C. The Commission and Plaintiff may use all other lawful means, including posing, through its representatives, as consumers, suppliers, or other individuals or entities, to Defendant

or any individual or entity affiliated with Defendant, without the necessity of identification or prior notice. Nothing in this Order limits 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.

XI.

RETENTION OF JURISDICTION

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

XII.

COMPLETE SETTLEMENT

The parties hereby consent to entry of the foregoing Order which shall constitute a final judgment and order in this matter. The parties further stipulate and agree that the entry of the foregoing Order shall constitute a full, complete and final settlement of this action.

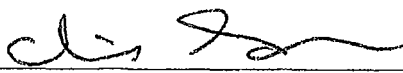
FOR THE PLAINTIFF:

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Principal Deputy Assistant Attorney General
MAAME EWUSI-MENSAH FRIMPONG
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Director, Consumer Protection Branch
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FOR DEFENDANT:



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4967 Chateau Dr.
San Diego, California 92117

Ann.F.Entwistle@usdoj.gov

SO ORDERED this ____ day of _____, 2013.

JOHN A. HOUSTON
UNITED STATES DISTRICT JUDGE