

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

RESORT PROPERTY DEPOT, INC., et. al.,

Defendants.

Case No. 8:13-CV-1328-T-35-TBM

**FINAL STIPULATED JUDGMENT FOR PERMANENT INJUNCTION
AND MONETARY RELIEF**

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), filed its Complaint for Injunctive and Other Equitable Relief for a permanent injunction and other equitable relief in this matter, pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108. The Commission and Defendants Resort Property Depot, Inc., and Narendra Patel stipulate to the entry of this Stipulated Order for Permanent Injunction and Monetary Judgment (“Order”) to resolve all matters in dispute in this action between them. (Dkts. 76; 76-1)

Based on the Parties’ stipulation, **IT IS ORDERED** as follows:

FINDINGS

1. This Court has jurisdiction over this matter.

2. The Complaint charges that Defendants participated in deceptive and unfair acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. §45, and the Telemarketing Sales Rule, 16 C.F.R. Part 310 (“TSR”), in connection with the sale of timeshare resale services.
3. Defendants neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendants admit the facts necessary to establish jurisdiction.
4. Defendants waive any claim that they may have under the Equal Access to Justice Act, 28 U.S.C. §2412, concerning the prosecution of this action through the date of this Order, and agree to bear their own costs and attorney fees.
5. Defendants waive all rights to appeal or otherwise challenge or contest the validity of this Order.
6. This Order is in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law.

DEFINITIONS

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

1. **“Individual Defendant”** means Narendrakomar G. Patel and by whatever other name he may be known.
2. **“Corporate Defendant”** or **“Receivership Defendant”** means Resort Property Depot, Inc., and its successors and assigns, and any fictitious business entities or business names created or used by this entity.
3. **“Defendants”** means the Individual Defendant and the Corporate Defendant, individually, collectively, or in any combination.

4. **“Net Proceeds”** means any sum remaining after satisfaction of senior recorded liens or encumbrances and after paying reasonable and customary fees, commissions, liquidation or closing costs associated with the sale or surrender of any asset.
5. **“Person”** means a natural person, business structure, organization or other legal entity, including a corporation, partnership, sole proprietorship, limited liability company, association, cooperative, trust, subsidiary, division or any other group or combination acting as an entity.
6. **“Telemarketing”** means any plan, program, or campaign that is conducted to induce the purchase of goods or services or a charitable contribution by use of one or more telephones, whether or not covered by the Telemarketing Sales Rule.
7. **“Timeshare”** means any right of ownership or occupancy in any vacation property or properties (including, but not limited to, condominiums, resorts, campgrounds, and cruise ships) that provides rights-holders with periodic usage or occupancy rights. The term also includes “point-based” programs that provide similar ownership or occupancy benefits.
8. **“Timeshare Resale Service”** means any good, service, plan or program represented, expressly or by implication, to assist an individual in advertising, marketing, promoting, offering for sale, or selling an individual’s Timeshare.

ORDER

I. PERMANENT BAN ON TELEMARKETING

IT IS THEREFORE ORDERED that Defendants, whether acting directly or indirectly, are hereby permanently restrained and enjoined from engaging in, participating in, or assisting others in Telemarketing.

II. PERMANENT BAN ON TIMESHARE RESALE SERVICES

IT IS FURTHER ORDERED that Defendants, whether acting directly or indirectly, are hereby permanently restrained and enjoined from advertising, marketing, promoting, offering for sale, or selling, or assisting others in advertising, marketing, promoting, offering for sale, or selling, any Timeshare Resale Service.

III. PROHIBITION AGAINST MISREPRESENTATIONS

IT IS FURTHER ORDERED that the Defendants, their officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them who receive actual notice of this Order, whether acting directly or indirectly, in connection with the advertising, marketing, promotion, offering for sale, or sale of any good or service, 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 the good or service;
- B. any material restriction, limitation, or condition to purchase, receive or use the good or service;
- C. any material aspect of the nature or terms of a refund, cancellation, exchange, or repurchase policy for the good or service; and
- D. any material aspect of the performance, efficacy, nature or central characteristic of the good or service.

IV. PROHIBITION AGAINST COLLECTING ON ACCOUNTS

IT IS FURTHER ORDERED that the Defendants, their officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them who receive actual notice of this Order, whether acting directly or indirectly, in connection with the advertising, marketing, promotion, offering for sale, or sale of any good or service, are

hereby permanently restrained and enjoined from attempting to collect, collecting, or assigning any right to collect payment from any consumer who purchased or agreed to purchase any Defendants' goods or services, where the purported authorization for the alleged sale occurred prior to the entry of this Order.

V. MONETARY JUDGMENT AND PARTIAL SUSPENSION

IT IS FURTHER ORDERED that:

- A. Judgment in the amount of \$2,630,845.92 is entered in favor of the Commission against the Defendants, jointly and severally, as equitable monetary relief. Upon Defendants' payment and/or transfer of all assets listed in Subsections B -D herein, the remainder of the judgment will be suspended, subject to Subsections E - G herein.
- B. Defendants are ordered to either:
 1. Pay to the Commission \$175,000.00. Such payment must be made within 15 days of the date of entry of Order by electronic fund transfer in accordance with instructions provided by a representative of the Commission; or
 2. Transfer possession of the Real Property located at 608 105th Terrace North, St. Petersburg, Florida 33716, as described in the General Warranty Deed attached hereto ("the Real Property"), to the Receiver within 15 days of the date of entry of this Order and transfer clear, unencumbered title to the real property to the Receiver or his designee at the direction of the Receiver within 15 days of receipt of written instructions from the Receiver to transfer such title. Individual Defendant will take all actions necessary to transfer clear title of the Real Property to the Receiver or his

designee, including obtaining any signatures and consents necessary to effectuate the transfer of the Real Property. Individual Defendant represents that there are no liens or encumbrances on the Real Property and they will not add any such encumbrances after signing this Stipulation. Until Individual Defendant transfers title and possession of the Real Property, he will: maintain and take no action to diminish the value of the Real Property, including any structures, fixtures, and appurtenances thereto, in the same condition as on March 28, 2014, the date Individual Defendant executed his sworn financial statements; remain current on all amounts due and payable on the Real Property, including but not limited to tax, insurance, homeowner's assessments, reasonable and necessary maintenance, and similar fees. In order to transfer possession of the Real Property, Individual Defendant will vacate the Real Property in "broom clean condition," and deliver all keys and security codes, if any, to the Receiver along with written notice that possession is surrendered. The Receiver or his designated agent will sell the Real Property and add the proceeds from the sale to the receivership estate. Any fees, taxes, or other payments mandated from a sale by law will be paid from the proceeds of the sale at the time the Real Property is sold.

- C. Individual Defendant is furthermore ordered to:
1. Transfer possession of his 2007 LEXUS 350 RX SUV (Vehicle Identification Number ending 3461) ("the Lexus") to the Receiver within 15 days of the date of entry of this Order in good condition, ordinary

wear and tear excepted, and transfer title to the Lexus to the Receiver at his direction. Individual Defendant will take all actions necessary to transfer clear title to the Lexus, including obtaining any signatures and consents necessary to effectuate the transfer of the Lexus. The Receiver or his designated agent will sell the Lexus and add the proceeds from the sale to the receivership estate. Any fees, taxes, or other payments mandated from a sale by law will be paid from the proceeds of the sale at the time the Lexus is sold;

2. Immediately after surrendering the aforementioned 2007 Lexus, terminate the auto insurance policy pertaining to the vehicle; and
3. Pay to the Commission all unused insurance premiums, within 7 days of receipt thereof.

D. In partial satisfaction of the monetary judgment, the following frozen assets held by third parties in the name of, or for the benefit of, Defendants will be transferred to the Commission as follows:

1. within 15 days of the date of entry of this Order, TD Ameritrade, its parent corporation, subsidiaries, principals, and agents, will transfer to the Commission by wire transfer, in accordance with instructions to be provided by the Commission, all funds in the name of, or for the benefit of the Defendants, including, but not limited to, Account No. ending 8336, held in the name of Narendrakomar G. Patel;
2. within 15 days of the date of entry of this Order, Bank of America, its parent corporation, subsidiaries, principals, and agents, will transfer to the

Commission by wire transfer, in accordance with instructions to be provided by the Commission, all funds in the name of, or for the benefit of the Defendants, including, but not limited to the following:

- a. Account No. ending 5115, jointly held in the names of Narendra G. Patel and Sunitaben Patel;
- b. Account No. ending 1163, held in the name of Narendra G. Patel;
- c. Account No. ending 7223, jointly held in the names of Narendra G. Patel and Sunitaben Patel.

Individual Defendant will take all actions necessary to effectuate the transfers in Sections VI. D.1 and 2 to the Receiver, including obtaining any signatures and consents necessary to effectuate the transfer of the funds.

E. The Commission's agreement to the suspension of part of the judgment is expressly premised upon the truthfulness, accuracy, and completeness of Defendants' sworn financial statements and related documents (collectively, "financial representations") submitted to the Commission, namely:

1. The Financial Statement of Individual Defendant signed by him on March 28, 2014;
2. The Financial Statement of Corporate Defendant Resort Property Depot, Inc., signed by Individual Defendant on March 28, 2014; and
3. Sworn oral statements taken of Individual Defendant taken on January 22, and January 23, 2014.

F. The suspension of the judgment will be lifted as to any Defendant if, upon

motion by the Commission, the Court finds that Defendant failed to disclose any material asset, materially misstated the value of any asset, or made any other material misstatement or omission in the financial representations identified above.

- G. If the suspension of the judgment is lifted, the judgment becomes immediately due as to that Defendant in the amount specified in Subsection A above (which the parties stipulate only for purposes of this Section represents the consumer injury), less any payment previously made pursuant to this Section, plus interest computed from the date of entry of this Order.
- H. All monies paid to the Commission pursuant to this Order will be deposited into a fund administered by the Commission or its designee to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the Commission decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may apply any remaining money for such equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the Complaint. Any money not used for such equitable relief is to be deposited to the U.S. Treasury as disgorgement. Defendants have no right to challenge any actions the Commission or its representatives may take pursuant to this Subsection.
- I. Defendants relinquish dominion and all legal and equitable right, title, and

interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

- J. As between and among the signatories to this Stipulation only, the facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission, including in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.
- K. As between and among the signatories to this Stipulation only, 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 will have collateral estoppel effect for such purposes.
- L. Defendants acknowledge that their Taxpayer Identification Numbers (Social Security Numbers or Employer Identification Numbers), which Defendants previously submitted to the Commission may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. §7701.

VI. CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Defendants, their officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them who receive actual notice of this Order are permanently restrained and enjoined from directly or indirectly:

- A. Failing to provide sufficient customer information to enable the Commission to efficiently administer consumer redress. If a representative of the Commission

requests in writing any information related to redress, Individual Defendant must provide it, in the form prescribed by the Commission, within 14 days.

- B. Disclosing, using, or benefitting from customer information including, but not limited to, 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), that any Defendant obtained prior to entry of this Order in connection with advertising, marketing, promotion, offering for sale or sale of any timeshare resale service; and
- C. Failing to destroy such customer information in all forms in their possession, custody, or control within 30 days after receipt of written direction to do so from a representative of the Commission. Destroying will 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.

VII. LIFTING OF ASSET FREEZE

IT IS FURTHER ORDERED that the freeze of Defendants' assets will be lifted for the sole purpose of transferring funds and assets pursuant to Section V above and will be dissolved only upon transfer of all such funds owed to Plaintiff. A third party will be entitled to rely upon a letter from Plaintiff stating that the freeze on the assets of a Defendant has been lifted.

VIII. RECEIVERSHIP

IT IS FURTHER ORDERED that:

- A. Except as modified by this Section, the receivership imposed by this Court will continue as set forth in the Order of Preliminary Injunction entered on July 26, 2013.
- B. The Receiver will take all steps necessary to immediately wind down the affairs and liquidate the assets of Receivership Defendant, as well as the assets of Individual Defendant surrendered to the Receiver pursuant to Section V of this Order, from wherever and in whatever form they may be located.
- C. The Receiver will continue to be entitled to compensation for the performance of his duties pursuant to this Order from the assets of Receivership Defendant, at the billing rate previously agreed to by the Receiver. Within 30 days after entry of this Order, and every 30 days thereafter until completed, the Receiver will file with the Court an accounting and request for the payment of such reasonable compensation.
- D. Upon the liquidation of any asset held by or surrendered to the Receiver, the Receiver will, at the FTC's request, immediately transfer all funds to the FTC or its designated representative in partial satisfaction of the judgment pursuant to Section V of this Order. The Receiver is authorized to withhold a reasonable sum, not to exceed 10% of the then-current liquid assets for costs, fees and expenses.
- E. Upon approval of the Receiver's final report and request for payment, but no later than 180 days after entry of this Order, the receivership will be terminated, and all

funds remaining after payment of the Receiver's final approved payment will be remitted immediately to the FTC or its designated representative.

- F. Within 5 days of termination of the receivership, the Receiver will return all records of Receivership Defendant in his possession relating to their financial affairs to Individual Defendant so that he may prepare and file all necessary corporate and individual tax returns. The Receiver is also directed to promptly turn over to Plaintiff records sufficient to show names of customers of Corporate Defendant, their addresses and contact information, and their net payments to Corporate Defendant.
- G. Any party or the Receiver may request that the Court extend the Receiver's term for good cause.

IX. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendants obtain acknowledgments of receipt of this Order:

- A. Each Defendant, within 7 days of entry of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.
- B. For 20 years after entry of this Order, Individual Defendant for any business that he, individually or collectively with Corporate Defendant, is the majority owner or controls directly or indirectly, and Corporate Defendant, must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who participate in timeshare resale services; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must

occur within 7 days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

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

X. COMPLIANCE REPORTING

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

- A. One year after entry of this Order, each Defendant must submit a compliance report, sworn under penalty of perjury:
1. Each Defendant must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission may use to communicate with Individual Defendant; (b) identify all of that 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, and the involvement of any other Defendant (which Individual Defendant must describe if he knows or should know due to his own involvement); (d) describe in detail whether and how that 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, Individual Defendant must: (a) identify all telephone numbers and all physical, postal, email, and Internet addresses, including all residences; (b) identify all business activities, including any business for which Individual Defendant performs services whether as an employee or otherwise and any entity in which Individual Defendant has any ownership interest; and (c) describe in detail Individual Defendant's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.
- B. For 20 years after entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:
1. Each Defendant must report any change in: (a) any designated point of contact; or (b) the structure of Corporate Defendant or any entity that Defendant has any ownership interest in or controls directly or indirectly 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, Individual Defendant must report any change in: (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for which Individual Defendant performs services whether as an employee or otherwise and any entity in which Individual Defendant has any ownership interest, and

identify the name, physical address, and any Internet address of the business or entity.

- C. Each Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against Individual Defendant 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: FTC v. Resort Property Depot, Inc., and Narendrakomar G. Patel, File No. X130046.

XI. RECORDKEEPING

IT IS FURTHER ORDERED that Defendants must create certain records for 20 years after entry of the Order, and retain each such record for 5 years. Specifically, Corporate Defendant, and Individual Defendant for any business that such Defendant, individually or collectively with any other Defendants, is a majority owner or controls directly or indirectly, must create and retain the following records:

- A. accounting records showing the revenues from all goods or services sold;
- 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. records of all consumer 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 unique advertisement or other marketing material.

XII. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants' compliance with this Order, including the financial representations upon which part of the judgment was suspended and any failure to transfer assets as required by this Order:

- A. Within 14 days of receipt of a written request from a representative of the Commission, each Defendant must submit the compliance reports or other requested information that is required by the terms of this Stipulation, which must be sworn under penalty of perjury.
- B. For matters concerning this Order, except concerning the re-initiation of litigation or resort to the Court, the Commission is authorized to communicate directly with each Defendant.
- C. Individual Defendant must permit representatives of the Commission to interview any employee or other person affiliated with any Defendant who has agreed to such an interview. The person sought to be interviewed may refuse to be interviewed may have counsel present if they choose to be interviewed. Any such

interview **SHALL BE AUDIO AND VIDEO RECORDED** at the Commission's expense. The Commission SHALL provide a written form of waiver to such person, which waiver shall inform the individual of the right to decline to be interviewed and the right to have counsel present at such interview and of the obligation imposed by Court order that the interview be recorded.

- D. The Commission may use all other lawful means to insure that Defendants are complying with this Stipulation, including posing, through its representatives, as consumers, suppliers, or other individuals or entities, to Defendants, 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.

XIII. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter **FOR THE LIMITED PURPOSE OF ENFORCEMENT OF THIS ORDER** on Motion of either party. The **CLERK** is **DIRECTED** to **CLOSE THIS CASE**.

DONE and **ORDERED** in Tampa, Florida, this 1st day of July, 2014.


MARY S. SCRIVEN
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel of Record
Any Unrepresented Person