

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
BROOKLYN DIVISION

_____)	
Federal Trade Commission,)	
)	Case No. CV-13-0976
Plaintiff,)	
v.)	Glasser, J./Scanlon, M.J.
)	
Instant Response Systems, LLC, a limited liability)	
company, also d/b/a Response Systems, B.B.)	
Mercantile, Ltd., Medical Alert Industrial, and)	
Medical Alert Services, and)	Final Order for Permanent
)	Injunction and Monetary
Jason Abraham, a/k/a Yaakov Abraham,)	Judgment Against Defendant
individually and as an officer of Instant Response)	Jason Abraham
Systems, LLC, also d/b/a Response Systems, B.B.)	
Mercantile, Ltd., Medical Alert Industrial, and)	
Medical Alert Services,)	
)	
Defendants.)	
_____)	

Plaintiff Federal Trade Commission (“FTC” or “Commission”) filed its Complaint for 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, the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. § 6101 *et seq.*, and the Unordered Merchandise Statute, 39 U.S.C. § 3009.

The Commission having moved for summary judgment against defendant Jason Abraham on all counts of its Complaint, **IT IS ORDERED, ADJUDGED, AND DECREED** as follows:

I.

FINDINGS

A. This Court has jurisdiction over the subject matter of this case and has jurisdiction over the defendant Jason Abraham.

- B. Venue in this District is proper.
- C. The Court finds that, in connection with marketing medical alert services, Defendant Jason Abraham violated Section 5 of the FTC Act, 15 U.S.C. § 45(a), the Telemarketing Sales Rule, 16 C.F.R. Part 310, and the Unordered Merchandise Statute, 39 U.S.C. § 3009.
- D. Absent a permanent injunction, Defendant Jason Abraham is likely to continue to engage in the activities alleged in the Commission's Complaint.
- E. This Order is in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law.
- F. Defendant Jason Abraham shall bear his own costs and attorney fees.
- G. Defendant Jason Abraham has caused consumer injury in the amount of three million four hundred thirty two thousand four hundred sixty two dollars (\$3,432,462.00).
- H. Entry of this Order is in the public interest.

II.

DEFINITIONS

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

- A. **“Corporate Defendant”** means Instant Response Systems, LLC, also d/b/a Response Systems, B.B. Mercantile, Ltd., Medical Alert Industrial, and Medical Alert Services, and its successors and assigns.
- B. **“Defendants”** means Individual Defendant and Corporate Defendant, individually or collectively.
- C. **“Financial Institution”** means any bank, savings and loan institution, credit union, or any financial depository of any kind, including any brokerage house or institution,

broker-dealer, escrow agent, title company, commodity trading company, credit card processor, payment processor, third party processor, merchant bank, acquiring bank, independent sales organization, payment gateway, insurance company, trustee, or precious metal dealer.

- D. **“Individual Defendant”** means Jason Abraham, a/k/a Yaakov Abraham.
- E. **“Medical Alert Goods or Services”** shall mean any good or service consisting of a transmitter and/or a console that either connects to a person’s telephone or otherwise enables a person to receive assistance from a monitoring service, first responder, or other third party.

III.

BAN ON ACTIVITIES RELATING TO MEDICAL ALERT GOODS OR SERVICES

IT IS FURTHER ORDERED that Individual Defendant is permanently restrained and enjoined from advertising, marketing, promoting, or offering for sale, or assisting in the advertising, marketing, promoting, or offering for sale of, any medical alert goods or services.

IV.

PROHIBITION AGAINST MISREPRESENTATIONS

IT IS HEREBY ORDERED that Individual Defendant, whether acting directly or indirectly, in connection with promoting or offering for sale any goods or services, is permanently restrained and enjoined from misrepresenting, or assisting others in misrepresenting, expressly or by implication:

- A. That consumers have ordered, purchased, or agreed to purchase goods or services, and therefore owe money; or
- B. Any other fact material to consumers concerning any goods or services.

[REDACTED]

V.

INJUNCTION CONCERNING UNORDERED MERCHANDISE

IT IS HEREBY ORDERED that Individual Defendant, whether acting directly or indirectly, in connection with promoting or offering for sale any good or service, is permanently restrained and enjoined from:

- A. Sending any merchandise without the prior expressed request or consent of the recipient unless such merchandise is clearly and conspicuously marked as a free sample and has attached to it a clear and conspicuous statement that the recipient may treat the merchandise as a gift and may retain, use, discard, or dispose of it in any manner without any obligation whatsoever to the sender; or
- B. Sending any communication, including, but not limited to, bills, invoices, reminders, letters, notices, or dunning communications, that in any manner seek to obtain payment for any merchandise shipped without the prior expressed request or consent of the recipient.

VI.

PROHIBITION ON COLLECTING PAYMENT

IT IS FURTHER ORDERED that Individual Defendant, whether acting directly or indirectly, is permanently restrained and enjoined from attempting to collect, collecting, selling,

or assigning, or otherwise transferring any right to collect payment for any medical alert good or service, directly or through any third party.

VII.

MONETARY JUDGMENT

IT IS FURTHER ORDERED that:

- A. Judgment in the amount of three million four hundred thirty two thousand four hundred sixty two dollars (\$3,432,462.00) is entered in favor of the Commission against Individual Defendant, as equitable monetary relief.
- B. Individual Defendant is ordered to pay the Commission the amount of three million four hundred thirty two thousand four hundred sixty two dollars (\$3,432,462.00).
- C. Individual Defendant acknowledges that his Taxpayer Identification Numbers (Social Security Numbers or Employer Identification Numbers), which Individual Defendant 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.
- D. All money paid to the Commission pursuant to this Order may 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 other 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.

[REDACTED]

VIII.

TURNOVER OF ASSETS HELD BY THIRD PARTIES

IT IS FURTHER ORDERED that, in order to partially satisfy the monetary judgment set forth in Section VII above, any financial or brokerage institution, escrow agent, title company, commodity trading company, automated clearing house, network transaction processor, payment processor, business entity, or person that holds, controls, or maintains custody of any account or asset of Individual Defendant, or any account or asset held on behalf of, or for the benefit of, Individual Defendant, or any account or asset frozen pursuant to (a) the *Ex Parte* Temporary Restraining Order with Asset Freeze, Accounting, and Other Equitable Relief, and Order for Defendants to Show Cause Why a Preliminary Injunction Should Not Issue, and (b) the Stipulated Preliminary Injunction, previously entered in this matter, shall turn over such account or asset to the Commission, by wire transfer pursuant to directions provided by counsel for the Commission, or as otherwise agreed to in writing by counsel for the Commission, within ten (10) business days of receiving notice of this Order by any means, including, but not limited to, via facsimile.

The accounts and assets to be turned over to the Commission pursuant to this Section include, without limitation, any funds remaining in Individual Defendant's accounts held by TD Bank, N.A. Provided, however, that the accounts and assets to be turned over to the Commission do not include Individual Defendant's IRA plan account (ending in last four digits 8314) held by U.S. Bank.

IX.

CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Individual Defendant is permanently restrained and enjoined from directly or indirectly:

- A. Failing to provide sufficient customer information to enable the Commission to administer efficiently consumer redress. If within 30 days after entry of this Order a Commission representative requests in writing any information related to redress, Individual Defendant must provide it, in the form prescribed by the Commission, within 14 days; and
- B. 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), that Defendants obtained prior to entry of this Order in connection with the marketing of medical alert goods or services.

If within 30 days after entry of this Order disclosure of such customer information is not requested by a government agency as required by law, regulation, or court order, Individual Defendant must destroy such customer information in all forms in his possession, custody, or control.

X.

LIFTING OF ASSET FREEZE

IT IS FURTHER ORDERED that the freeze on the assets of Individual Defendant shall remain in effect until the Commission has received all asset transfers referred to in Section VIII

of this Order. Upon such transfers to the Commission, the freeze against the assets of Individual Defendant shall be lifted permanently.

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.

SO ORDERED:

DATED: April 14, 2015

/s/

I. Leo Glasser
Senior United States District Judge