

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

)	
FEDERAL TRADE COMMISSION,)	
Plaintiff,)	Case No. 14-cv-23109
v.)	STIPULATED ORDER FOR
)	PERMANENT INJUNCTION AND
PARTNERS IN HEALTH CARE)	MONETARY JUDGMENT AS TO
ASSOCIATION, INC. <i>et al.</i> ,)	DEFENDANTS UNITED SOLUTIONS
)	GROUP, INC., WALTER S. VARGAS,
Defendants.)	AND CONSTANZA GOMEZ VARGAS
)	

On August 25, 2014, Plaintiff, the Federal Trade Commission (“FTC”) filed its Complaint for Permanent Injunction and Other Equitable Relief (the “Complaint”) 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, against the Defendants in this action.

The Court issued a temporary restraining order against all Defendants, and, following a hearing, entered a stipulated preliminary injunction against United Solutions Group, Inc., Walter S. Vargas, and Constanza Gomez Vargas (the “Florida Defendants”). The FTC and the Florida Defendants have agreed to this Stipulated Order for Permanent Injunction and Monetary Judgment (“Order”) to resolve all matters in dispute in this action between them.

IT IS HEREBY ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.

2. The Complaint charges that Defendants participated in deceptive 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.

3. Only for purposes of this action, the Florida Defendants admit the facts necessary to establish jurisdiction.

4. The Florida 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. The Florida Defendants and the Commission waive all rights to appeal or otherwise challenge or contest the validity of this Order.

6. The Florida Defendants waive any and all claims to the assets of any of the Defendants, including any assets currently in possession of the Receiver appointed by the Court, except as otherwise expressly agreed to herein, and further stipulate that their share of any of these assets are to be transferred to the FTC to be used for equitable relief.

DEFINITIONS

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

1. **“Defendants”** means all of the Defendants in this action: United Solutions Group, Inc., Walter S. Vargas, Constanza Gomez Vargas, Partners in Health Care Association, Inc., and Gary L. Kieper, individually, collectively, or in any combination.

2. **“Healthcare-Related Products”** means any program, membership, card, product, insurance policy, or other good or service, that offers, or purports to offer, insurance, discounts, savings, or benefits on healthcare, or access to insurance, discounts, savings, or benefits on healthcare. The insurance policies included in this definition are limited to policies covering healthcare services and products.

3. **“Corporate Defendant”** means United Solutions Group, Inc., also doing business as Debt Relief Experts, Inc., and its successors and assigns.

4. **“Individual Defendants”** means Walter S. Vargas and Constanza Gomez Vargas.

5. **“Florida Defendants”** means the Corporate Defendant and the Individual Defendants, individually, collectively, or in any combination.

I.

BAN ON SELLING HEALTHCARE-RELATED PRODUCTS

IT IS ORDERED that the Florida Defendants are permanently restrained and enjoined from: advertising, marketing, promoting, offering for sale, or assisting in the advertising, marketing, promoting, or offering for sale of any Healthcare-Related Products.

II.

PROHIBITION AGAINST MISREPRESENTATIONS

IT IS FURTHER ORDERED that the Florida Defendants, their officers, agents, and employees, 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 marketing or offering for sale any goods or services, are hereby permanently restrained and enjoined from misrepresenting, or assisting others in misrepresenting, expressly or by implication:

- A. any material aspect of the performance, efficacy, nature, or central characteristics of any good or service;
- B. any material restriction, limitation, or condition to purchase, receive, or use goods or services that are the subject of a sales offer;
- C. any affiliation with, or endorsement or sponsorship by, any person or government entity;
- D. any material aspect of the nature or terms of the seller’s refund, cancellation, exchange, or repurchase policies; or

E. any other information material to consumers concerning any goods or services, such as the total costs to purchase, receive, or use, and the quantity of, any goods or services that are the subject of a sales offer.

III.

PROHIBITION AGAINST THE USE OF CUSTOMER INFORMATION

IT IS FURTHER ORDERED that the Florida Defendants, their officers, agents, and employees, 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. 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 any Defendant obtained prior to the entry of this Order in connection with the sale of any Healthcare-Related Products; and

B. failing to destroy such customer information in all forms in their possession, custody, or control within thirty (30) days after entry of this Order.

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.

EQUITABLE MONETARY RELIEF

IT IS FURTHER ORDERED that:

A. Judgment in the amount of Two Million One Hundred Fourteen Thousand Eight Hundred Eighty-two Dollars (\$2,114,882) is entered in favor of the FTC and against each of the Florida Defendants, jointly and severally, as equitable monetary relief.

B. The Florida Defendants are ordered to pay to the Commission Seventeen Thousand Six Hundred Sixteen Dollars (\$17,616), which, as the Florida Defendants

stipulate, their undersigned counsel holds in escrow for no purpose other than payment to the Commission. Such payment must be made within seven (7) days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission. Upon such payment and all other asset transfers listed in Subsection C below, the remainder of the judgment as to all Florida Defendants is suspended, subject to the terms of Subsections below.

C. Individual Defendant Walter S. Vargas is ordered to transfer to the Receiver, Peter Russin, all control, title, possession, legal and equitable title, dominion, and interest in (i) the 2004 Mercedes Benz SL 500 and (ii) the 2008 Mercedes Benz CLK 230, both of which he identified in the Financial Statement and Affidavit of Individual Defendant Walter S. Vargas, signed on September 1, 2014, within seven (7) days of the date of entry of this Order. Walter S. Vargas shall cooperate fully and take such steps as the Receiver may require, including executing any documents and providing any necessary information, to cause the transfer of such assets. Any outstanding fee, debt, or cost associated with the storage of any car surrendered under this Order must be paid in full – by Walter S. Vargas – before Walter S. Vargas surrenders the relevant car to the Receiver.

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

1. the Financial Statement and Affidavit of United Solutions Group, Inc., signed on September 1, 2014, by Walter S. Vargas, including all attachments, supplemental materials, and tax returns submitted therewith;
2. the Financial Statement and Affidavit of Individual Defendant Walter S. Vargas, signed on September 1, 2014, including all attachments, supplemental materials, and tax returns submitted therewith; and

3. the Financial Statement and Affidavit of Individual Defendant Constanza Gomez Vargas, signed on September 1, 2014, including all attachments, supplemental materials, and tax returns submitted therewith.

E. The suspension of the judgment will be lifted as to any Florida Defendant if, upon motion by the FTC, 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.

F. If the suspension of the judgment is lifted, the judgment becomes immediately due as to that Florida Defendant in the amount specified in Subsection IV.A above (which the parties to this agreement stipulate only for purposes of this Section, represents the consumer injury alleged in the Complaint), less any payment previously made pursuant to this Section, plus interest computed from the date of the entry of this Order.

G. The Florida Defendants relinquish dominion, and all legal and equitable right, title, or interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

H. 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 FTC, including in a proceeding to enforce its right to any payment or monetary judgment pursuant to this Order, such as a non-dischargeability complaint in any bankruptcy case.

I. The facts alleged in the Complaint establish all elements necessary to sustain an action by the FTC 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.

J. The Florida Defendants acknowledge that their Taxpayer Identification Numbers (Social Security Numbers or Employer Identification Numbers), which they previously submitted to the FTC, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

K. All money paid to the FTC pursuant to this Order may be deposited into a fund administered by the FTC 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 FTC decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the FTC may apply any remaining money 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 money not used for such equitable relief is to be deposited to the U.S. Treasury as disgorgement. The Florida Defendants have no right to challenge any actions the FTC or its representatives may take pursuant to this Subsection.

V.

LIFTING OF ASSET FREEZE

IT IS FURTHER ORDERED that the asset freeze set forth in the stipulated preliminary injunction, entered on September 11, 2014, is modified to permit the turnover of the Florida Defendants' assets in partial satisfaction of the Equitable Monetary Relief provisions, as set forth in Section IV of this Order. Upon completion of those payments and transfers, the asset freeze as to the Florida Defendants is dissolved.

VI.

COMPENSATION OF RECEIVER

IT IS FURTHER ORDERED that the Receiver and all personnel hired by the Receiver, including counsel to the Receiver and accountants, are entitled to reasonable compensation for the performance of duties pursuant to this Order and for the cost of actual out-of-pocket expenses incurred by them, from the assets now held by, in the possession or control of, or which may be received by, the Florida Defendants. The Receiver must not increase the hourly rates used as the bases for such fee applications without prior approval of the Court.

VII.

RECEIVER'S FINAL REPORT AND DISBURSEMENT OF RECEIVERSHIP ESTATE

IT IS FURTHER ORDERED that:

A. The Receiver shall liquidate the assets of the Florida Defendants in his possession, as well as any assets transferred to the Receiver pursuant to Section IV of this Order, as soon as practicable. The Receiver may dispose of any valueless assets as he sees fit. The Receiver shall file his Final Report within one hundred and twenty (120) days after entry of this Order, unless this time is extended by the Court for good cause. The Final Report shall include an accounting of the Receivership Estate's finances and total assets and a description of what other actions, if any, must be taken to wind-down the Receivership. Promptly thereafter, but no later than thirty (30) days after submission of the Final Report, the Receiver shall file an application for payment of compensation and expenses associated with his performance of duties as Receiver under this Order, the Temporary Restraining Order, and the Preliminary Injunctions entered in this proceeding. The Receiver shall mail copies of the Final Report to all known creditors of the Florida Defendants with a notice stating that any objections to paying any assets of the Florida Defendants to satisfy the Receiver's costs and expenses and the monetary judgment set forth in this Order must be submitted to the Court and served by mail upon the Receiver and the parties within thirty (30) days of the mailing of the Final Report. If subsequent actions (such as the completion of tax returns or further actions to recover funds for the Receivership) are appropriate, the Receiver shall file an additional report or reports ("Supplemental Report") describing the subsequent actions and a subsequent application for the payment of fees and expenses related to the subsequent acts.

B. The Court will review the Final Report and any objections to the report and, absent a valid objection, will issue an order directing the Receiver to: (1) pay the reasonable costs and expenses of administering the Receivership, including the compensation of the Receiver and the Receiver's personnel authorized by Section VI (Compensation of Receiver)

of this Order or other orders of this Court, and the actual out-of-pocket costs incurred by the Receiver in carrying-out his duties; and (2) pay all remaining funds to the FTC as partial satisfaction of the judgment.

C. With Court approval, the Receiver may hold back funds for a specified period as a reserve to cover additional fees and costs related to actions to be addressed in a Supplemental Report. If the Receiver does not make a supplemental application for fees and expenses within the specified period, or if funds remain in the reserve fund after the payments of fees and expenses approved by the Court in response to such a supplemental application, all funds remaining in the reserve fund shall be immediately paid to the FTC or its designated agent.

VIII.

RECEIVERSHIP TERMINATION

IT IS FURTHER ORDERED that the Receiver must complete all duties within 120 days after entry of this Order, but any party or the Receiver may request that the Court extend the Receiver's term for good cause.

IX.

COOPERATION WITH RECEIVER

IT IS FURTHER ORDERED that the Florida Defendants and their representatives, officers, agents, employees, and any other person served with a copy of this Order shall fully cooperate with and assist the Receiver in taking and maintaining possession, custody, or control of the assets that the Florida Defendants are surrendering pursuant to Section IV of this Order (Equitable Monetary Relief). This cooperation and assistance shall include, but not be limited to, providing information to the Receiver that the Receiver deems necessary to exercise the authority and discharge the responsibilities of the Receiver under this Order; providing any password required to access any computer, electronic file, or telephonic data in any medium; advising all persons who owe money to the Florida Defendants that all debts should be paid directly to the Receiver; and transferring funds or

title of assets at the Receiver's direction and producing records related to the assets and sales of the Florida Defendants. The entities obligated to cooperate with the Receiver under this provision include, but are not limited to, banks, broker-dealers, savings and loans, escrow agents, title companies, commodity trading companies, precious metals dealers, credit card processors, payment processors, merchant banks, acquiring banks, independent sales organizations, third party processors, payment gateways, insurance companies and other financial institutions and depositories of any kind, as well as common carriers, telecommunications companies and third-party billing agents.

X.

COOPERATION WITH FTC COUNSEL

IT IS FURTHER ORDERED that the Florida Defendants must fully cooperate with representatives of the Commission in this case and in any investigation related to or associated with the transactions or the occurrences that are the subject of the Complaint. The Florida Defendants must provide truthful and complete information, evidence, and testimony. The Individual Defendants must appear and the Corporate Defendant must cause its officers, employees, representatives, or agents to appear for interviews, discovery, hearings, trials, and any other proceedings that a Commission representative may reasonably request upon five (5) days written notice or other reasonable notice, at such places and times as a Commission representative may designate, without the service of a subpoena.

XI.

ACKNOWLEDGMENT OF RECEIPT OF ORDER

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

A. Each of the Florida Defendants, within seven (7) days of entry of this Order, must submit to the FTC an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For five (5) years after entry of this Order, each Individual Defendant for any business that such Individual Defendant, individually or collectively with any other Defendant, is the majority owner or controls directly or indirectly, and the 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 conduct related to the subject matter of this Order; 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. For all others, delivery must occur before they assume their responsibilities.

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

XII.

COMPLIANCE REPORTING

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

A. One year after entry of this Order, each of the Florida Defendants must submit a compliance report, sworn under penalty of perjury:

1. Each of the Florida Defendants 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 that Defendant; (b) identify all of that Florida 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 Florida Defendant (which each Individual Defendant must describe if he or she knows or should know due to his or her own involvement); (d) describe in detail

whether and how that Florida 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 FTC; and

2. Additionally, each 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 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 ten (10) years after entry of this Order, each Florida Defendant must submit a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in the following:

1. Each Florida Defendant must report any change in: (a) any designated point of contact; or (b) the structure of any Corporate Defendant or any entity that such 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, each 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 such defendant performs services whether as an employee or otherwise and any entity in which such defendant has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity;

C. Each Florida Defendant must submit to the FTC notice of the filing of any bankruptcy petition, insolvency proceeding, or any similar proceeding by or against such defendant within fourteen (14) days of its filing;

D. Any submission to the FTC 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; and

E. Unless otherwise directed by an FTC representative in writing, all submissions to the FTC 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. Partners In Health Care*, X140058.

XIII.

RECORDKEEPING

IT IS FURTHER ORDERED that the Florida Defendants must create certain records for ten (10) years after entry of the Order, and to retain each such record for five (5) years.

Specifically, the Corporate Defendant and each of the Individual Defendants for any business that such defendant, individually or collectively with any other Defendant, 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 FTC; and
- E. a copy of each unique advertisement, marketing email, banner advertisement, pop-up advertisement, mobile advertisement, web page, direct mail piece, Telemarketing script, text advertisement, or other marketing material.

XIV.

COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring the Florida Defendants' compliance with this Order, including the financial representations upon which part of the judgment was suspended:

A. Within fourteen (14) days of receipt of written request from a representative of the FTC, each of the Florida Defendants 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 FTC is 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 FTC is authorized to communicate directly with each of the Florida Defendants. The Florida Defendants must permit representatives of the FTC to interview any employee or other person affiliated with them who has agreed to such an interview. The person interviewed may have counsel present.

C. The FTC may use all other lawful means, including posing, through its representatives, as consumers, suppliers, or other individuals or entities, to Florida Defendants or any individual or entity affiliated with them, without the necessity of identification or prior notice. Nothing in this Order limits the FTC's lawful use of

compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

D. Upon written request from a representative of the FTC, any consumer reporting agency must furnish consumer reports concerning the Individual Defendants, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(1).

XV.

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, this 9th day of November, 2015.

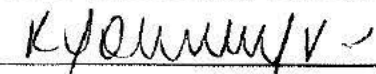
Robert N. Scola, Jr.
UNITED STATES DISTRICT JUDGE

SO STIPULATED AND AGREED:

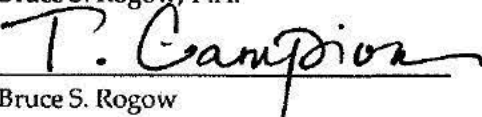
FOR FLORIDA DEFENDANTS:




Walter S. Vargas, *Individually and as
President of defendant United Solutions
Group, Inc.*
Date: 04/28/15

CONSTANZA GOMEZ VARGAS


Constanza Gomez Vargas, *Individually and
as a manager of defendant United Solutions
Group, Inc.*
Date: 4/28/15

Bruce S. Rogow, P.A.


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