
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

NATIONAL WEB DESIGN, LLC, a
Wyoming limited liability company,

B2B WEBSITE DESIGN, LLC, also d/b/a
Affiliate Web Design, a Delaware limited
liability company,

AMAZON AFFILIATE PROGRAM, LLC,
also d/b/a The Affiliate Consultants, a
Delaware limited liability company,

R&C CONSULTATION, LLC, also d/b/a
R&C Consulting, a Delaware limited
liability company, and

RANDON J. MORRIS, a/k/a Randy Morris,
individually and as a member or manager of
NATIONAL WEB DESIGN, LLC, B2B
WEBSITE DESIGN, LLC, AMAZON
AFFILIATE PROGRAM, LLC, and R&C
CONSULTATION, LLC,

Defendants.

**ORDER GRANTING STIPULATED
MOTION FOR PERMANENT
INJUNCTION AND MONETARY
JUDGMENT**

Case No. 2:20-cv-00846-RJS

Chief Judge Robert J. Shelby

Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), filed its Complaint for Permanent Injunction and Other Equitable Relief (“Complaint”), 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 Sales Rule (“TSR”), 16 C.F.R. Part 310. The Commission and Defendants stipulate to the entry of this

Order Granting Stipulated Motion for Permanent Injunction and Monetary Judgment (“Order”) to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants participated in deceptive and abusive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, and Sections 310.3 and 310.4 of the FTC’s Telemarketing Sales Rule (“TSR”), 16 C.F.R. §§ 310.3(a)(2)(iii), (vii), (a)(4), and 310.4(b)(1)(v), by (1) making false or unsubstantiated earnings claims regarding the goods and services they market and sell to consumers; (2) misrepresenting, directly or indirectly, expressly or by implication, that Defendants are part of or affiliated with Amazon; and (3) initiating or causing the initiation of illegal outbound telephone calls that delivered prerecorded messages to induce the purchase of goods or 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 and the Commission waive all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

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

- A. **“Business Opportunity”** means a commercial arrangement in which:
1. a seller solicits a prospective purchaser to enter into a new business; and
 2. the prospective purchaser makes a required payment; and
 3. 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.

B. **“Corporate Defendants”** means National Web Design, LLC, B2B Website Design, LLC, also d/b/a Affiliate Web Design, Amazon Affiliate Program, LLC, also d/b/a The Affiliate Consultants, and R&C Consultation, LLC, also d/b/a R&C Consulting, individually, collectively, or in any combination, and their successors and assigns.

C. **“Defendants”** means Corporate Defendants and Randon Morris, individually, collectively, or in any combination.

D. **“Earnings Claim”** means any representation to a consumer, specific or general, about income, financial gains, percentage gains, profit, net profit, gross profit, or return on investment.

E. **“Person”** means a natural person, organization, or 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.

F. **“Randon Morris”** means Defendant Randon J. Morris, a/k/a Randy Morris.

G. **“Receiver”** means Thomas R. Barton, attorney in the Salt Lake City office of Parsons Behle & Latimer, appointed in Section XI. of the Temporary Restraining Order (Docket No. 10), and any deputy receivers that shall be named by the Receiver.

H. **“Work-at-Home Opportunity”** means any program, plan, product, or service represented to enable a participant or purchaser thereof to earn any consideration while working at home.

ORDER

I. BUSINESS OPPORTUNITY AND WORK-AT-HOME OPPORTUNITY BAN

IT IS ORDERED that Defendants are permanently restrained and enjoined from advertising, marketing, distributing, promoting, or offering for sale, or assisting in the advertising, marketing, distributing, promoting, or offering for sale of, any Business Opportunity or Work-at-Home Opportunity.

II. BAN ON ROBOCALLS

IT IS FURTHER ORDERED that Defendants, whether acting directly or through an intermediary, are permanently restrained and enjoined from:

A. Engaging in, causing others to engage in, or assisting others to engage in the initiation of any outbound telephone call that delivers a prerecorded message; and

B. Controlling, holding a managerial post in, consulting for, serving as an officer in, having any revenue sharing agreement with, or holding any ownership interest, share, or stock in any company that engages in conduct prohibited in Subsection A above. *Provided, however*, that it is not a violation of this Order to own a non-controlling interest in a publicly-traded company that engages in such conduct.

III. PROHIBITED BUSINESS ACTIVITIES

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, employees, and attorneys, and all other Persons in active concert or participation with them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with promoting or offering for sale any good or service, are permanently restrained and enjoined from:

A. making any Earnings Claim, unless the Earnings Claim is non-misleading, and, at the time such claim is made, Defendants:

1. have a reasonable basis for their claim;
2. have in their possession written materials that substantiate the claim; and
3. make the written substantiation available upon request to the consumer, potential purchaser or investor, and to the FTC; or

B. misrepresenting or assisting others in misrepresenting, expressly or by implication:

1. that a Person is, represents, or is affiliated with any merchant or brand;
2. any other fact material to consumers concerning any product or service, such as: the total costs; any material restrictions, limitations, or conditions; or any material aspect of its performance, efficacy, nature, or central characteristics.

IV. MONETARY JUDGMENT AND PARTIAL SUSPENSION

IT IS FURTHER ORDERED that:

A. Judgment in the amount of two million twenty-seven thousand two hundred ninety-five dollars and thirty-one cents (\$2,027,295.31) is entered in favor of the Commission against Defendants, jointly and severally, as equitable monetary relief.

B. Defendants are ordered to surrender to the Commission all control, title, dominion and interest each has to the following assets:

1. All reserve funds and the contents of any other accounts held, controlled, or serviced by Esquire Bank, and associated with any payments processed by, or on behalf of Corporate Defendants, including the merchant account with the merchant identification number (“MID”) ending in 0001.
2. All funds held by Zions Bancorporation, N.A in the account ending in 5450, held in the name of National Web Design, LLC.

3. All reserve funds and the contents of any other accounts held, controlled, or serviced by Mission Valley Bank, and associated with any payments processed by, or on behalf of Corporate Defendants, including the merchant account with the merchant identification number (“MID”) ending in 1390.

C. Upon surrender of assets specified in Subsection B, the remainder of the judgment is suspended, subject to the Subsections below.

D. 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 Randon Morris signed on December 15, 2020, including the attachments;
2. the Financial Statement of Corporate Defendant National Web Design, LLC signed by Randon Morris, member and manager, on December 16, 2020;
3. the Financial Statement of Corporate Defendant B2B Website Design, LLC signed by Randon Morris, member and manager, on December 16, 2020;
4. the Financial Statement of Corporate Defendant Amazon Affiliate Program, LLC signed by Randon Morris, member and manager, on December 16, 2020;
5. the Financial Statement of Corporate Defendant R&C Consultation, LLC signed by Randon Morris, member and manager, on December 17, 2020;
6. the additional documentation submitted by email from Randon Morris’s counsel Joann Shields to Commission counsel Laura C. Basford and D. Allen Dreschel, dated December 18, 2020, attaching Randon Morris’s 2018 tax return;

7. the additional documentation submitted by email from Randon Morris's counsel Joann Shields to Commission counsel Laura C. Basford and D. Allen Dreschel dated December 21, 2020, attaching a home appraisal for 512 Robin Road, Orem, UT, 84097;
8. the additional documentation submitted by email from Randon Morris's counsel Joann Shields to Commission counsel Laura C. Basford dated December 23, 2020, confirming certain vehicles were leased;
9. the additional documentation submitted by email from Randon Morris's counsel Joann Shields to Commission counsel Laura C. Basford and D. Allen Dreschel dated December 23, 2020, attaching a revised Attachment B to the Financial Statement of Randon Morris;
10. the additional documentation submitted by email from Randon Morris's counsel Joann Shields to Commission counsel Laura C. Basford and D. Allen Dreschel dated December 31, 2020 and received at 2:31 PM Eastern time, attaching a home-equity loan application denial;
11. the additional documentation submitted by email from Randon Morris's counsel Joann Shields to Commission counsel Laura C. Basford and D. Allen Dreschel dated December 31, 2020 and received at 10:07 PM Eastern time, attaching additional home-equity loan application denials.

E. The partial suspension of the judgment will be lifted as to any Defendant if, upon motion by the Commission, the Court finds that 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 partial 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 alleged in the Complaint, less any payment previously made pursuant to this Section, plus interest computed from the date of entry of this Order.

V. ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

A. 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.

B. 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.

C. 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.

D. 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.

E. 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. Defendants have no right to challenge any actions the Commission or its representatives may take pursuant to this Subsection.

F. The asset freeze is modified to permit the surrender of assets specified in Section IV.B. Upon the surrender of such assets, the asset freeze is dissolved.

VI. CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Defendants and Defendants' officers, agents, 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 sale of any good or service 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, Defendants must provide it, in the form prescribed by the Commission, within 14 days.

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 any Defendant obtained prior to entry of this Order in connection with the sale of business opportunities; 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.

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 law, regulation, or court order.

VII. COOPERATION

IT IS FURTHER ORDERED that Defendants must fully cooperate with representatives of the Commission in any investigation related to or associated with the transactions or the occurrences that are the subject of the Complaint. Defendants must provide truthful and complete information, evidence, and testimony. Randon Morris must appear and Corporate Defendants must cause Corporate Defendants' officers, employees, representatives, or agents to appear for interviews, discovery, hearings, trials, and any other proceedings that a Commission representative may reasonably request upon 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.

VIII. RECEIVERSHIP TERMINATION

IT IS FURTHER ORDERED that:

A. The Court-appointed receivership over Corporate Defendants is hereby terminated, subject to the procedure provided in the following Subsections.

B. To the extent not already completed, the Receiver shall, as soon as practicable after the entry of this Order, take exclusive custody, control, and possession of all assets identified in Section IV.B. of this Order.

C. No later than 30 days after the entry of this Order, the Receiver shall file an application for payment of compensation and expenses associated with his performance of his duties as Receiver.

D. The Court will review the application and any objections to the application and, absent a valid objection, will issue an order directing that the Receiver:

1. Pay the reasonable costs and expenses of administering the receivership, including compensation of the Receiver and the actual out-of-pocket costs incurred by the Receiver in carrying out his duties;
2. Pay all remaining funds to the Commission or its designated agent to reduce the monetary judgment in Section IV.

E. Upon this Court's Order for final payment to the Receiver from the assets of Corporate Defendants, the receivership shall terminate.

IX. LIABILITY OF RECEIVER

IT IS FURTHER ORDERED that:

A. The Receiver and all other persons or entities who may be engaged or employed by the Receiver to assist him shall have absolute quasi-judicial immunity as long as the Receiver and said other persons or entities are faithfully carrying out, or attempting to faithfully carry out, the provisions of this Order, the Temporary Restraining Order (Docket No. 10), or any other order of this Court. *See Teton Millwork Sales v. Schlossberg*, 311 Fed Appx 145, 149-50 (10th Cir. 2009). In no event shall the Receiver and his agents, acting within the scope of such agency

(“Retained Personnel”) be liable to anyone for their good faith compliance with their duties and responsibilities as Receiver or Retained Personnel, nor shall the Receiver or Retained Personnel be liable to anyone for any actions taken or omitted by them except upon a finding by this Court that they acted or failed to act as a result of malfeasance, bad faith, gross negligence, or in reckless disregard of their duties.

B. This Court shall retain jurisdiction over any action filed against the Receiver or Retained Personnel based upon acts or omissions committed in their representative capacities.

X. 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 5 years after entry of this Order, for any business that Randon Morris, individually or collectively with any other Defendants, is the majority owner or controls directly or indirectly, and each Corporate Defendant, must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees having managerial responsibilities for telemarketing, advertising or sales, and all agents and representatives who participate in telemarketing, advertising 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 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.

XI. 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 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 goods and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant (which Randon Morris 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, Randon Morris 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 Randon Morris performs services whether as an employee or otherwise and any entity in which Randon Morris has any ownership interest;

and (c) describe in detail Randon Morris'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 any 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, Randon Morris 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 Randon Morris performs services whether as an employee or otherwise and any entity in which Randon Morris 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 such 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. National Web Design, LLC.

XII. 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 Defendants, in connection with telemarketing, and Randon Morris, 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; 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, and telemarketing scripts.

XIII. COMPLIANCE MONITORING

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

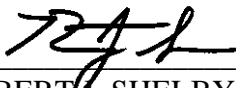
- A. Within 14 days of receipt of a written request from a representative of the Commission, each Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission 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 Commission is authorized to communicate directly with each Defendant. 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 interviewed may have counsel present.
- C. The Commission may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Defendants or any individual or entity affiliated with 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.
- D. Upon written request from a representative of the Commission, any consumer reporting agency must furnish consumer reports concerning Randon Morris, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. §1681b(a)(1).

XIV. 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 12th day of March 2021.

BY THE COURT:

Handwritten signature of Robert J. Shelby in black ink, consisting of stylized initials 'RJS' followed by a surname.

ROBERT J. SHELBY
United States Chief District Judge