

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION**

CASE NO. 21-81139-CIV-CANNON

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

MONETA MANAGEMENT, LLC,

a Florida corporation,

MONETA MANAGEMENT, INC.,

a Florida corporation, and

MICHAEL TODD GREENE,

individually and as an officer or director of

Moneta Management, LLC and Moneta Management, Inc.,

Defendants.

**STIPULATED ORDER FOR PERMANENT INJUNCTION
AND MONETARY JUDGMENT AS TO MONETA MANAGEMENT, LLC,
MONETA MANAGEMENT, INC., AND MICHAEL TODD GREENE**

THIS CAUSE comes before the Court upon the Parties' Joint Motion for Entry of Stipulated Order for Permanent Injunction and Monetary Judgment as to Moneta Management, LLC, Moneta Management, Inc., and Michael Todd Greene ("Joint Motion") [ECF No. 5].

Plaintiff, the Federal Trade Commission ("Commission" or "FTC"), filed its Complaint for Permanent Injunction and Other Relief pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"). *See* 15 U.S.C. §§ 53(b), 57b. The Commission and Defendants stipulate to the entry of this Stipulated Order for Permanent Injunction and Monetary Judgment as to Moneta Management, LLC, Moneta Management, Inc., and Michael Todd Greene ("Order") to resolve all matters in dispute in this action between them. The Court has reviewed the Motion and is otherwise fully advised in the premises. Accordingly, it is hereby

ORDERED AND ADJUDGED that the Joint Motion [ECF No. 5] is **GRANTED** as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants participated in unfair or deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, by providing payment processors false or deceptive information to obtain and maintain merchant accounts and ignoring evidence of fraudulent activity on merchant accounts.
3. The Complaint also alleges that Defendants violated the FTC’s Trade Regulation Rule entitled Telemarketing Sales Rule (“TSR”), 16 C.F.R. § 310.3(b), by providing substantial assistance to Brandon Frere and his three companies, American Financial Benefits Center, Inc., the Financial Education Benefits Center, Inc., and Ameritech Financial, Inc., whom Defendants knew or consciously avoided knowing were violating the TSR.
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 attorneys’ fees.
5. Defendants 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. **“ACH Debit”** means any completed or attempted debit to a Person’s account at a Financial Institution that is processed electronically through the Automated Clearing House Network.

- B. **“Acquirer”** means a business organization, Financial Institution, or an agent of a business organization or Financial Institution that has authority from an organization that operates or licenses a credit card system (e.g. Visa, MasterCard, American Express, and Discover) to authorize Merchants to accept, transmit, or process payment by credit card through the credit card system for money, goods or services, or anything else of value.
- C. **“Chargeback”** means a procedure whereby an issuing bank or other Financial Institution charges all or part of an amount of a Person’s credit or debit card transaction back to the acquiring or merchant bank.
- D. **“Defendants”** means all of the Individual and Corporate Defendants, individually, collectively, or in any combination.
1. **“Corporate Defendants”** means Moneta Management, LLC, and Moneta Management, Inc.
 2. **“Individual Defendant”** means Michael Todd Greene.
- E. **“Financial Institution”** means any institution the business of which is engaging in financial activities as described in section 4(k) of the Bank Holding Company Act of 1956 (12 U.S.C. § 1843(k)). An institution that is significantly engaged in financial activities is a Financial Institution.
- F. **“Independent Sales Organization”** or **“ISO”** means any Person, corporation, organization, or other entity that solicits, matches, arranges, or refers Payment Processing Services for Clients, or that solicits, matches, arranges, or refers Clients for Payment Processing Services, or is registered as an ISO or merchant service provider with Visa, MasterCard, or any credit card association.

- G. **“Merchant”** means a Person who uses a Payment Processor or an Originating Depository Financial Institution to directly or indirectly submit ACH Transactions into the ACH Network, directly or indirectly submit Remotely Created Payment Orders through the banking system, or who is authorized under a written contract with an Acquirer to honor or accept credit cards, or to transmit or process for payment credit card payments for the purchase of goods or service or a charitable contribution.
- H. **“Merchant Account”** means any account with an Acquirer or other Financial Institution, service provider, Payment Processor, ISO, or other entity that enables an individual, a business, or other organization to accept payments of any kind.
- I. **“Payment Processing”** means transmitting sales transaction data on behalf of a Merchant or providing a Person, directly or indirectly, with the means used to charge, debit or credit accounts through the use of any payment method or mechanism, including, but not limited to, ACH transactions, ACH debits, credit cards, debit cards, prepaid cards, stored value cards, and Remotely Created Payment Orders. Whether accomplished through the use of software or otherwise, Payment Processing includes, among other things: (a) reviewing and approving Merchant applications for payment processing services; (b) transmitting Merchants’ sales transaction data or providing the means to transmit Merchants’ sales transaction data to Acquirers, ODFI’s, Payment Processors, ISOs, or other financial institutions; (c) clearing, settling, or distributing proceeds of sales transactions from acquiring banks or financial institutions to Merchants, directly or indirectly; or (d) processing ACH Transactions, Refunds, credit card transactions, Chargebacks, Remotely Created Payment Orders or returned Remotely Created Payment Orders.

- J. **“Payment Processor”** means any Person providing Payment Processing services in connection with another Person’s sale of goods or services or in connection with any charitable contribution.
- K. **“Person”** means an individual, partnership, corporation, entity, association or organization.
- L. **“Sales Agent”** means a Person that matches, arranges, or refers Merchants to a Payment Processor, ISO, Sales Agent, or Acquirer for ISO or Payment Processing services. As such, a Sales Agent may be involved in recommending a particular ISO, Payment Processor, or Acquirer to a Merchant, or in recommending a particular Merchant to an ISO, Payment Processor, or Acquirer. For purposes of this definition, a Sales Agent does not necessarily use the title “sales agent,” and includes Persons, independent contractors, sales representatives, sub- agents, and sub-ISOs (however titled) working for or under a Sales Agent’s office who refer Merchants to a Sales Agent or ISO for Payment Processing services.

ORDER

I.

BAN AGAINST PAYMENT PROCESSING OR ACTING AS AN ISO OR SALES AGENT

IT IS ORDERED that Defendants, and each of their successors and assigns, are permanently restrained and enjoined from Payment Processing or acting as an ISO or Sales Agent.

II.

PROHIBITION AGAINST ASSISTING AND FACILITATING

IT IS FURTHER ORDERED that Defendants, Defendants’ officers, agents, servants, 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, are permanently restrained and

enjoined from providing substantial assistance or support to any Person that they know, or should know, is engaged in:

- A. Making, or assisting others in making, directly or by implication, any false or misleading statement in order to obtain Payment Processing services;
- B. Misrepresenting, directly or by implication, any material aspect of the performance, efficacy, nature, or central characteristics of any goods and services;
- C. Misrepresenting, directly or by implication, any material aspect of the nature or terms of any refund, cancellation, exchange, or repurchase policies;
- D. The unauthorized debiting or charging of consumer bank or credit card accounts;
- E. Any deceptive, unfair, or abusive act or practice prohibited by Section 5 of the FTC Act, or the TSR; or
- F. Any tactics to avoid fraud and risk monitoring programs established by any Financial Institution, acquiring bank, or the operators of any payment system, including, but not limited to, balancing or distributing sales transaction volume or sales, transaction activity among multiple Merchant Accounts or Merchant billing descriptors; splitting a single sales transaction into multiple smaller transactions; or using shell companies to apply for a Merchant Account.

III. MONETARY JUDGMENT

IT IS FURTHER ORDERED that:

- A. Judgment in the amount of \$28,600,000 (twenty-eight million, six hundred thousand Dollars) is entered in favor of the Commission against Defendants, jointly and severally, as monetary relief.

B. Defendants are ordered to pay to the Commission \$20,493 (twenty thousand, four hundred and ninety-three Dollars), which, as Defendants stipulate, their undersigned counsel holds in escrow for no purpose other than payment to the Commission. Such payment must be made within 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, the remainder of the judgment is suspended, subject to the Subsections below.

C. 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 on March 19, 2021, including the attachments;
2. the Financial Statements of each Corporate Defendant, each signed by Michael Todd Greene, Corporate Defendants' owner, director, and officer, on March 19, 2021, including the attachments; and
3. the e-mail correspondence from Defendants' counsel, James Ryan, to Commission counsel, Lara Tumeh, sent on March 18, 2021 at 3:11 PM, including all attached correspondence, information, and documents.

D. 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.

E. 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 alleged in the Complaint), less any payment previously made pursuant to this Section, plus interest computed from the date of entry of this Order.

**IV.
ADDITIONAL MONETARY PROVISIONS**

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.

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 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 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 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.

V.
CUSTOMER INFORMATION

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 by personal service or otherwise, 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's representative, 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 American Financial Benefits Center, Inc., Financial Education Benefits Center, Inc., and/or Ameritech Financial, Inc.; 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.

VI. COOPERATION

IT IS FURTHER ORDERED that 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. Defendants must provide truthful and complete information, evidence, and testimony. The Individual Defendant must appear and the Corporate Defendants must cause its officers, employees, representatives, or agents to appear for interviews, discovery, hearings, trials, and any other proceedings that the Commission may reasonably request upon five (5) days written notice, or other reasonable notice, at such places and times as the Commission may designate, without the service of a subpoena.

VII. 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, the Individual Defendant, for any business that such Individual Defendant 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 conduct related to the subject matter of the Order and all agents and representatives who participate in conduct related to the subject matter of the 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 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.

VIII. 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 that 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 the Individual Defendant must describe if he knows or should know due to their 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, the 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 the Individual Defendant performs services whether as an employee or otherwise and any entity in which the Individual Defendant has any ownership interest; and (c) describe in detail such 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 any Corporate Defendant or any entity that any 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 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 the Commission’s 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. Moneta Management, LLC, et al., No. 1923154.

IX. 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 and the 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 individual providing services, whether as an employee or otherwise, that individual's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;
- C. records of all refund and Chargeback requests, whether received directly or indirectly, such as through a third party, and any response; and
- D. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission.

X.
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 and any failure to transfer any 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 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. Each 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.

**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.

DONE AND ORDERED in Chambers at Fort Pierce, Florida this 8th day of July 2021.

A handwritten signature in black ink, appearing to read 'Aileen Cannon', written over a horizontal line.

**AILEEN M. CANNON
UNITED STATES DISTRICT JUDGE**

cc: counsel of record