

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 18-10548-GAO

FEDERAL TRADE COMMISSION,
Plaintiff,

v.

JASJIT GOTRA,
Defendant.

PRELIMINARY INJUNCTION

July 31, 2019

O'TOOLE, D.J.

The Federal Trade Commission (“FTC”) brought suit against Alliance Security, Inc.; its principal stockholder and officer Jasjit Gotra; Defend America, LLC; Jessica Merrick; Power Marketing Promotions LLC; and Kevin Klink, alleging that the defendants had engaged, and were likely to continue to engage, in acts and practices in violation of the FTC’s Telemarketing Sales Rule, 16 C.F.R. Part 310, the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. §§ 1681–1681x, and Section 5(a) of the FTC Act, 15 U.S.C. § 45(a). The FTC moved for the entry of a preliminary injunction against all defendants.

The FTC entered into consent agreements with all defendants except Gotra. The Court heard argument from the FTC and Gotra, acting *pro se*, regarding the motion for preliminary relief against him. After consideration of the relevant pleadings and arguments, the Court GRANTS the request for the entry of a preliminary injunction pursuant to Federal Rule of Civil Procedure 65(a) against Gotra as set forth herein.

Definitions

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

A. “**Asset**” means any legal or equitable interest in, right to, or claim to, any property, wherever located and by whomever held.

B. “**Consumer Reporting Agency**” means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. Consumer Reporting Agencies include, among others, TransUnion, Equifax, and Experian.

C. “**Consumer Report**” means consumer credit reports, consumer credit scores, or any other written, oral, or other communication of any information by a Consumer Reporting Agency bearing on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

D. “**Defendant Gotra**” means Defendant Jasjit Gotra.

E. “**Document**” is synonymous in meaning and equal in scope to the usage of “document” and “electronically stored information” in Federal Rule of Civil Procedure 34(a), Fed. R. Civ. P. 34(a), and includes writings, drawings, graphs, charts, photographs, sound and video recordings, images, Internet sites, web pages, websites, electronic correspondence, including e-mail and instant messages, contracts, accounting data, advertisements, FTP Logs, Server Access Logs, books, written or printed records, handwritten notes, telephone logs, telephone scripts, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, computer records, customer or sales databases and any other electronically stored information, including Documents located on remote servers or cloud computing systems, and other data or data compilations from which information can be obtained directly or, if

necessary, after translation into a reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

F. “**Outbound Telephone Call**” means a telephone call initiated by a Telemarketer to induce the purchase of goods or services or to solicit a charitable contribution.

G. “**Person**” means any natural person, organization, or other legal entity, including a corporation, limited liability company, partnership, proprietorship, association, cooperative, government or governmental subdivision or agency, or any other group or combination acting as an entity.

H. “**Telemarketer**” means any person who, in connection with Telemarketing, initiates or receives telephone calls to or from a customer or donor.

I. “**Telemarketing**” means a plan, program, or campaign, which is conducted to induce the purchase of goods or services or a charitable contribution, by use of one or more telephones and which involves more than one interstate telephone call.

K. “**Written Authorization**” means an email, facsimile, or signed letter from a consumer sent to Defendant Gotra or his agents, employees, or representatives permitting Defendant Gotra to obtain or use a Consumer Report containing information about that consumer. Written Authorization does not include verbal or oral statements made by a consumer during a telephone call or in-person meeting.

ORDER

I. Ban on Outbound Telemarketing

It is therefore ordered that Defendant Gotra, whether acting directly or indirectly through an intermediary (such as third-party telemarketers, contractors, or vendors), is preliminarily restrained and enjoined from:

A. Initiating Outbound Telephone Calls, assisting others in initiating Outbound Telephone Calls, and causing any other person, vendor, or contractor to initiate Outbound Telephone Calls, which includes among other conduct: (1) contracting with third-parties who solicit sales or set appointments on behalf of Defendant Gotra, directly or indirectly, through the use of Outbound Telephone Calls; and (2) contracting with third-parties who place Outbound Telephone Calls to potential customers and then transfer those potential customers to Defendant Gotra, directly or indirectly.

B. Receiving any transferred telephone call or any other telephone call to solicit the sale of goods and services, other than a call a consumer placed directly to Defendant Gotra.

C. Owning or controlling, holding a managerial post, 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 banned in subsection I.A.; *provided, however*, that it shall not be a violation of this Order for Defendant Gotra to own a non-controlling stock interest in a publicly traded company that engages in conduct banned in subsections I.A-B, so long as Defendant Gotra does not perform any work for or on behalf of that company.

II. Ban on Obtaining or Using Consumer Reports

It is further ordered that Defendant Gotra, whether acting directly or through an intermediary, is preliminarily restrained and enjoined from:

A. Obtaining any Consumer Report from any Consumer Reporting Agency or from any other person, unless he has Written Authorization to obtain such Consumer Report from the consumer before obtaining the Consumer Report;

B. Using any Consumer Report for any purpose unless he has prior Written Authorization from the consumer authorizing Defendant Gotra to use such Consumer Report for the designated purpose before using it; and

C. Owning or controlling, holding a managerial post, 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 banned in subsection I.A.; *provided, however*, that it shall not be a violation of this Order for Defendant Gotra to own a non-controlling stock interest in a publicly traded company that engages in conduct banned in subsection II.A., so long as Defendant Gotra does not perform work for or on behalf of that company.

III. Preservation of Records

It is further ordered that Defendant Gotra is preliminarily restrained and enjoined from:

A. Destroying, erasing, falsifying, writing over, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, Documents that relate to: (1) the business, business practices, Assets, or business or personal finances of any defendant originally named in this action; or (2) the business practices or finances of entities directly or indirectly under Defendant Gotra's control.

It is SO ORDERED.

/s/ George A. O'Toole, Jr.
United States District Judge