

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

Case No: 8:16-cv-1435-MSS-AEP

D & S MARKETING SOLUTIONS LLC, a
Florida limited liability company, SEAN
K. JUHL, individually and as owner,
officer, or manager of D & S Marketing
Solutions LLC and Grand Marketing
Solutions LLC, and GRAND
MARKETING SOLUTIONS LLC, a
Florida limited liability company,

Defendants.

**Stipulated Order for Permanent Injunction and Monetary Judgment Against
Defendants D & S Marketing Solutions LLC, Grand Marketing Solutions LLC, and
Sean K. Juhl**

Plaintiff, the Federal Trade Commission ("FTC" or the "Commission"), filed its First Amended Complaint for Permanent Injunction and Other Equitable Relief in this matter (ECF 34), pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), against Defendants D & S Marketing Solutions LLC, Grand Marketing Solutions LLC, and Sean K. Juhl (collectively "Defendants"). The Commission and the Defendants stipulate to the entry of this Order 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 First Amended Complaint charges that Defendants participated in deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, in connection with the marketing, offering for sale, and sale of government regulation posters.

3. Defendants neither admit nor deny any of the allegations in the First Amended 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 waive all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

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

1. "**Defendants**" means the Individual Defendant and the Corporate Defendants, individually, collectively, or in any combination.

A. "**Corporate Defendants**" or "Receivership Defendants" means **D & S Marketing Solutions LLC**, also d/b/a US Corporate Compliance Office, Office of Compliance and Safety Standards, and Occupational Safety and Compliance Administration; and **Grand Marketing Solutions LLC**, also d/b/a Occupational Safety and Compliance Administration, and Employer Compliance and Safety Standards; and their successors and assigns.

B. **"Individual Defendant"** means **Sean K. Juhl**, by whatever names known.

2. **"Receiver"** means **Anthony E. DiResta** of Holland and Knight, LLP and any deputy receivers that shall be named by the Receiver.

3. **"Receivership Defendants"** means the Corporate Defendants.

ORDER

I. BAN ON SALE OF GOVERNMENT REGULATION POSTERS

IT IS ORDERED that 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 posters or other materials detailing federal or applicable state laws, which are required by federal or state regulation to be posted and are provided by state or federal agencies to the public.

II. PROHIBITION AGAINST MISREPRESENTATIONS

IT IS FURTHER ORDERED that Defendants, 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 advertising, marketing, promotion, offering for sale or sale of any good or service are permanently restrained and enjoined from misrepresenting, or assisting others in misrepresenting, expressly or by implication:

A. That Defendants are part of or affiliated with the Occupational Safety and Health Administration ("OSHA") or another government agency;

B. That consumers are required by law or regulation to purchase goods or services; and

C. Any fact material to consumers concerning any good 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 .

III. MONETARY JUDGMENT

IT IS FURTHER ORDERED that:

A. Judgment in the amount of three million, eight hundred seventeen thousand, eight hundred fifty-six dollars and thirty-three cents (\$ 3,817,856.33) is entered in favor of the Commission against the Defendants, jointly and severally, as equitable monetary relief, provided, however, that upon the completion of all asset transfers specified in Subsection B of this Section, and subject to the Subsections below, the remainder of the Judgment is suspended.

B. In partial satisfaction of the monetary judgment against Defendants:

1. Within fifteen (15) days of the date of entry of this Order Defendant Juhl shall transfer possession of the Real Property located at 3 S. Pine Circle, Belleair, Florida 33756 (the "Real Property"), identified in Defendant Juhl's sworn financial statement dated December 15, 2016, to the Receiver or his designated agent. In order to transfer possession, Defendant Juhl will vacate the Real Property in "broom clean condition" and deliver all keys and security codes, if any, to the Receiver along with written notice that possession is surrendered. Until Defendant Juhl transfers title of the Real Property, he will: (a) maintain the Real Property, including taking no action to diminish the value of the property, including any structures, fixtures, and appurtenances, thereto, in the same condition as on December 15, 2016, the date Defendant Juhl executed his sworn financial

statement; (b) not add any encumbrance to the Real Property after entry of this Order; and (c) remain current on all amounts due and payable on the Real Property, including but not limited to mortgage payments, property taxes, insurance, homeowner's assessments, reasonable and necessary maintenance, and similar fees. Defendant Juhl shall transfer legal and equitable title to the Real Property to the Receiver or his designee within seven (7) days of receipt of written instructions from the Receiver to transfer such title. The Receiver or his designated agent will sell the Real Property and add the proceeds from the sale to the receivership estate. Any fees, taxes or other payments mandated from the sale by law will be paid from the proceeds of the sale. In addition, upon the sale of the Real Property, the Receiver shall transfer to the Internal Revenue Service ("IRS") from the net sales proceeds seventy-five thousand, nine hundred one dollars and twenty-nine cents (\$75,901.29) plus interests and costs, as payment of Defendant Juhl's outstanding federal tax liability for the years 2014 and 2015; provided further, that if for any reason and at any time the IRS rejects, refunds, or otherwise returns to Defendant Juhl, in whole or in part, the payment contemplated by this subsection, then within five (5) days of receipt of such refund or return from the IRS, Defendant Juhl shall transfer the returned funds to the Commission by wire transfer in accordance with instructions to be provided by the Commission.

2. Defendant Sean K. Juhl shall deliver to the Receiver, or his designated agent, within seven (7) days of entry of this Order, to the extent that he has not already done so, possession of the following personal property:

- a. 2009 Scout boat and boat trailer;

- b. Rolex watch model 1983 GMT Master 18k YG & SS;
- c. Gun collection consisting of Kel-Tec p3at, Springfield xd-9, and Ruger lc9; and
- d. 2009 Ezgo golf cart;

Upon the Receiver's request, Defendant Juhl shall also promptly transfer title, if applicable, to the foregoing property to the Receiver or his designated agent. The Receiver or his designated agent shall sell the property and add the proceeds from the sale to the receivership estate. Any fees, taxes or other payments mandated from a sale by law will be paid from the proceeds of the sale.

3. Achieva Credit Union, its parent corporation, subsidiaries, principals, and agents shall transfer to the Receiver or his designated agent, by wire transfer in accordance with instructions to be provided by the Receiver, all funds held in the frozen account ending in xxxx[REDACTED];

4. Bank of America, its parent corporation, subsidiaries, principals, and agents shall transfer to the Receiver or his designated agent, by wire transfer in accordance with instructions to be provided by the Receiver, all funds held in the frozen accounts ending in xxxx[REDACTED], xxxx[REDACTED], xxxx[REDACTED], xxxx[REDACTED], xxxx[REDACTED], xxxx[REDACTED], xxxx[REDACTED], and xxxx[REDACTED];

5. Freedom Bank, its parent corporation, subsidiaries, principals, and agents shall transfer to the Receiver or his designated agent, by wire transfer in accordance with instructions to be provided by the Receiver, all funds held in the frozen accounts ending in xxxx[REDACTED], xxxx[REDACTED], and xxxx[REDACTED];

6. Merrill Lynch, its parent corporation, subsidiaries, principals, and agents shall transfer to the Receiver or his designated agent, by wire transfer in accordance with instructions to be provided by the Receiver, all funds held in the frozen accounts ending in xxxx [REDACTED] and xxxx [REDACTED];

7. Priority One Clearing Services, its parent corporation, subsidiaries, principals, and agents shall transfer to the Receiver or his designated agent, by wire transfer in accordance with instructions to be provided by the Receiver, all funds held in accounts receivables, reserve funds, or any other accounts for or on behalf of Defendants;

8. Regions Bank, its parent corporation, subsidiaries, principals, and agents shall transfer to the Receiver or his designated agent, by wire transfer in accordance with instructions to be provided by the Receiver, all funds held in the frozen account ending in xxxx [REDACTED];

9. Stripe Inc., its parent corporation, subsidiaries, principals, and agents shall transfer to the Receiver or his designated agent, by wire transfer in accordance with instructions to be provided by the Receiver, all funds held in accounts receivables, reserve funds, or any other accounts for or on behalf of Defendants; and

10. TD Ameritrade, its parent corporation, subsidiaries, principals, and agents shall transfer to the Receiver or his designated agent, by wire transfer in accordance with instructions to be provided by the Receiver, all funds held in the frozen account ending in xxxx [REDACTED];

C. In the event that it is necessary to execute additional documents to transfer or liquidate assets of the Defendants under this Order, or to dissolve and wind down the Receivership Defendants, Defendant Juhl shall execute such documents within three (3) days of a written request from the Receiver or the Commission.

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, deposition testimony, and related documents (collectively, "Financial Representations") submitted to the Commission, namely:

1. The sworn deposition testimony of Defendant Sean K. Juhl, individually and as President and owner of D & S Marketing Solutions LLC and Grand Marketing Solutions LLC, held on March 7, 2017;

2. The Financial Statement of Individual Defendant Sean K. Juhl signed on June 15, 2016,

3. The Financial Statement of Corporate Defendant D & S Marketing Solutions LLC, signed by Sean K. Juhl, Owner, on June 15, 2016;

4. The Financial Statement of Corporate Defendant Grand Marketing Solutions LLC, signed by Sean K. Juhl, President, on October 10, 2016;

5. The following additional documentation submitted by Defendants' counsel Peter R. Silverman to Plaintiff:

a. Individual Defendant Juhl's federal tax returns for the years 2011 through and including 2015;

b. Corporate Defendant D & S Marketing Solutions LLC's federal tax returns for the years 2011 through and including 2015;

- c. Corporate Defendant Grand Marketing Solutions LLC's federal and state returns for the years 2014 and 2015;
- d. Occupational Safety and Compliance Administration annual profit and loss statements for 2014 up to and including June 6, 2016; and
- e. US Corporate Compliance Office annual profit and loss statements for 2013 up to and including June 6, 2016.

E. 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.

F. 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 unjust enrichment alleged in the First Amended Complaint (ECF 34)), less any payment previously made pursuant to this Section, plus interest computed from the date of entry of this Order.

G. Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and assets previously turned over to the Receiver, pursuant to the Temporary Restraining Order entered by this Court on June 8, 2016 (ECF 13), the Stipulated Preliminary Injunction entered by this Court on June 20, 2016 (ECF 15), and the Amended Stipulated Preliminary Injunction entered by this Court on September 9, 2016 (ECF 46), and may not seek the return of any assets.

H. The facts alleged in the First Amended 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.

I. The facts alleged in the First Amended 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.

J. 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.

K. 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 First Amended Complaint (ECF 34). 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.

IV. CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Defendants, 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, 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 fourteen (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 advertising, marketing, promotion, offering for sale of any government regulation posters; and

C. Failing to destroy such customer information in all forms in their possession, custody, or control within thirty (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.

V. LIFTING OF ASSET FREEZE

IT IS FURTHER ORDERED that the freeze of Defendants' assets remains in effect, but will be lifted for the sole purpose of transferring funds and assets pursuant to Section III above and will be dissolved only upon completion of all those transfers. A third party may rely upon a letter from Plaintiff stating that the freeze on the assets of a Defendant has been lifted.

VI. RECEIVERSHIP

IT IS FURTHER ORDERED that:

A. Except as modified by this Section, the receivership imposed by this Court will continue as set forth in the Amended Stipulated Order of Preliminary Injunction entered on September 9, 2016 (ECF 46).

B. The Receiver must take all steps necessary to immediately wind down the affairs and liquidate the assets of the Receivership Defendants, as well as the assets of the Individual Defendant surrendered to the Receiver pursuant to Section III of this Order, from wherever and in whatever form they may be located.

C. The Receiver will continue to be entitled to compensation for the performance of his duties pursuant to this Order from the assets of the Receivership Defendants. Within sixty (60) days after entry of this Order, and every sixty (60) days thereafter until completed, the Receiver must file with the Court an accounting and request for the payment of such reasonable compensation.

D. Upon the liquidation of any asset held by or surrendered to the Receiver, the Receiver must, at the FTC's request, immediately transfer all funds to the FTC or its

designated representative. The Receiver is authorized to withhold a reasonable sum, not to exceed ten percent of the then-current liquid assets for costs, fees and expenses.

E. Upon approval of the Receiver's final report and request for payment, but no later than one hundred eighty (180) days after entry of this Order, the receivership will be terminated, and all funds remaining after payment of the Receiver's final approved payment must be remitted immediately to the FTC or its designated representative.

F. Any party or the Receiver may request that the Court extend the Receiver's term for good cause.

VII. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendants obtain acknowledgments of receipt of this Order.

A. Each Defendant, within seven (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 fifteen (15) years after entry of this Order, the Individual Defendant for any business that he, individually or collectively with any other 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, agents, and representatives who participate in the advertising, marketing, promoting, offering for sale or sale of government regulation posters; 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 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.

VIII. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that the 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 Individual Defendant 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, 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 fifteen (15) years after entry of this Order; each Defendant must submit a compliance notice, sworn under penalty of perjury, within fourteen (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, the 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 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 fourteen (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. D & S Marketing Solutions LLC, et al., X160042

IX. RECORDKEEPING

IT IS FURTHER ORDERED that Defendants must create certain records for fifteen (15) years after entry of the Order, and retain each such record for five (5) years. Specifically, Corporate Defendants and Individual Defendant, 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; 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.

X. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants' compliance with this Order, including the Financial Representations upon which part of the judgment was suspended and any failure to transfer any assets as required by this Order:

A. Within fourteen (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 Individual Defendant, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. §1681b(a)(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 Tampa, Florida, this 10th day of July, 2017.



MARY S. SCRIVEN
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel of Record
Any Unrepresented Person