

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

**FEDERAL TRADE COMMISSION and
OFFICE OF THE ATTORNEY GENERAL,
STATE OF FLORIDA,
DEPARTMENT OF LEGAL AFFAIRS,**

Plaintiffs,

v.

Case: No. 8:15-cv-1417-T-23AEP

E.M. SYSTEMS & SERVICES, LLC, a Florida limited liability company; **ADMINISTRATIVE MANAGEMENT & DESIGN, LLC**, a Florida limited liability company; **KLS INDUSTRIES, LLC**, d/b/a **SATISFIED SERVICE SOLUTIONS, LLC**, a Florida limited liability company; **EMPIRICAL DATA GROUP TECHNOLOGIES, LLC**, a Florida limited liability company; **EPIPHANY MANAGEMENT SYSTEMS, LLC**, a Florida limited liability company; **STEVEN D. SHORT**, an individual; **KARISSA L. DYAR**, an individual; **ONE EASY SOLUTION LLC**, a Florida limited liability company; **CHRISTOPHER C. MILES**, an individual; **JASON E. GAGNON**, an individual; **KENNETH A. SALLIES**, an individual; **MATTHEW B. THOMAS**, an individual; **CARDREADY, LLC**, a California limited liability company; **BRANDON A. BECKER**, an individual; **JAMES F. BERLAND**, an individual; and **ANDREW S. PADNICK**, an individual,

Defendants.

**STIPULATED ORDER FOR PERMANENT INJUNCTION AND MONETARY
JUDGMENT AS TO MATTHEW B. THOMAS**

Plaintiffs Federal Trade Commission and the Office of the Attorney General, State of Florida, Department of Legal Affairs (“Florida Attorney General”) filed their *Amended Complaint For Permanent Injunction And Other Equitable Relief* (“Amended Complaint”) 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; the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. §§ 6101-6108; and the Florida Deceptive and Unfair Trade Practices Act (“FDUTPA”), Chapter 501, Part II, Florida Statutes (2014). Plaintiffs and Defendant Matthew B. Thomas (“Settling Defendant”) stipulate to the entry of this *Stipulated Order For Permanent Injunction and Monetary Judgment as to Matthew B. Thomas* (“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 Amended Complaint charges that Settling Defendant participated in deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45; in violation of the FTC’s Trade Regulation Rule entitled “Telemarketing Sales Rule” (“TSR”), 16 C.F.R. Part 310; and in violation of FDUTPA.
- 3.** Settling Defendant neither admits nor denies any of the allegations in the Amended Complaint, except as specifically stated in this Order. Only for purposes of this action, Settling Defendant admits the facts necessary to establish jurisdiction.
- 4.** Settling Defendant waives 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.** Settling Defendant waives all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

For purposes of this Order, the following definitions apply:

A. “Debt Relief Product or Service” means any product, service, plan or program represented, directly or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of the debt between a Person and one or more unsecured creditors or debt collectors, including, but not limited to, a reduction in the balance, interest rate, or fees owed by a Person to an unsecured creditor or debt collector.

B. “One Easy Defendants” means One Easy Solutions, LLC, its successors and assigns, Jason E. Gagnon, Matthew B. Thomas, Christopher C. Miles, and Kenneth A. Sallies, individually, collectively, or in any combination.

C. “Person” means an individual, group, unincorporated association, limited or general partnership, corporation, or entity.

D. “Receiver” means Burton W. Wiand.

E. “Settling Defendant” means Matthew B. Thomas.

F. “Telemarketing” means any plan, program, or campaign which is conducted to induce the purchase of goods or services by use of one or more telephones, and which involves a telephone call, whether or not covered by the Telemarketing Sales Rule.

I. BAN ON TELEMARKETING

IT IS ORDERED that Settling Defendant is permanently restrained and enjoined from participating in telemarketing, whether directly or through an intermediary.

II. BAN ON MARKETING DEBT RELIEF PRODUCTS OR SERVICES

IT IS FURTHER ORDERED that Settling Defendant is permanently restrained and enjoined from advertising, marketing, promoting, or offering for sale or assisting others in

advertising, marketing, promoting, or offering for sale any Debt Relief Product or Service.

III. PROHIBITION AGAINST MISREPRESENTATIONS

IT IS FURTHER ORDERED that Settling Defendant, Settling Defendant's 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, promoting or 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.** The total costs to purchase, receive, or use the good or service;
- B.** That any Person is affiliated with, endorsed or approved by, or otherwise connected to any other Person;
- C.** The terms of any policy about refunds, cancellations, exchanges, or repurchases;
- D.** Any material aspect of the performance, efficacy, nature, or characteristics of the product or service; or
- E.** Any other material fact.

IV. PROHIBITION AGAINST UNSUBSTANTIATED CLAIMS

IT IS FURTHER ORDERED that Settling Defendant, Settling Defendant's 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, promoting or offering for sale, or sale of any good or service, are permanently restrained and enjoined from making any representation or assisting others in making any representation, expressly or by implication, about the benefits, performance, or efficacy of any product or service, unless, at the time such representation is

made, the Settling Defendant possesses and relies upon competent and reliable evidence that substantiates that the representation is true.

V. MONETARY JUDGMENT

IT IS FURTHER ORDERED THAT:

A. Judgment in the amount of Two Million Five Hundred Sixty-seven Thousand One Hundred and Seventy-four Dollars (\$2,567,174.00) is entered in favor of the Plaintiffs against Settling Defendant, jointly and severally, as equitable monetary relief.

B. Settling Defendant is ordered to transfer to the Receiver, or his designated representative or transferee, possession of the following jewelry identified in the Financial Statement of Matthew B. Thomas, signed on July 29, 2016: (1) one gold chain approximately 30 (thirty) inches in length; (2) one small diamond pendant; and (3) two diamond rings. Such transfers shall be made within 7 days of entry of this Order. The Receiver or his designated agent shall sell the jewelry and add the proceeds from the sale to the receivership estate. Any transfer fees, taxes, or other payments mandated from a transferor by law shall be paid from the proceeds of the sale at the time the jewelry is sold.

C. Settling Defendant is ordered to pay to Plaintiffs Ten Thousand Dollars (\$10,000.00), which, as Settling Defendant stipulates, his undersigned counsel holds in escrow for no purpose other than payment to Plaintiffs. Such payment must be made within 7 days of entry of this Order by electronic fund transfer in accordance with instructions provided by a representative of the Commission or the Florida Attorney General's Office. Upon such payment and all other asset transfers described in Subsection B, the remainder of the judgment is suspended, subject to the Subsections below.

D. Plaintiffs' agreement to the partial suspension of the judgment against Settling Defendant is expressly premised upon the truthfulness, accuracy, and completeness of the sworn

financial statements and related documents (collectively, “financial representations”) submitted to Plaintiffs, namely, the Financial Statement of Matthew B. Thomas, signed by Matthew B. Thomas on July 29, 2016, including the attachments.

E. The suspension of the judgment will be lifted as to Settling Defendant if, upon motion by Plaintiffs, the Court finds that Settling 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 Settling Defendant in the amount specified in Subsection A. above, which Settling Defendant stipulates only for purposes of this Section represents the One Easy Defendants’ unjust enrichment alleged in the Amended Complaint, less any payment previously made pursuant to this Section, plus interest computed from the date of entry of this Order.

G. Settling Defendant relinquishes 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.

H. The facts alleged in the Amended Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of Plaintiffs, including in a proceeding to enforce their right 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 Amended Complaint establish all elements necessary to sustain an action by Plaintiffs 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. Settling Defendant acknowledges that their Taxpayer Identification Numbers (Social Security Number or Employer Identification Number), which the Settling Defendant previously submitted to Plaintiffs, may be used for collecting and reporting any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

K. All money paid to Plaintiffs pursuant to this Order may be deposited into a fund administered by the Plaintiff Federal Trade 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 Plaintiffs decide that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, Plaintiffs may apply any remaining money for such other equitable relief (including consumer information remedies) as they determine to be reasonably related to Settling Defendant's practices alleged in the Amended Complaint. All funds not used for the equitable relief described above in this subsection ("remaining funds") is to be divided equally between the Commission and the Florida Attorney General, with half to be deposited to the U.S. Treasury as disgorgement and half to be deposited to the Department of Legal Affairs Revolving Trust Fund as attorney's fees and costs of ongoing monitoring and enforcement. Settling Defendant has no right to challenge any actions Plaintiffs or their representatives may take pursuant to this subsection.

VI. CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Settling Defendant, Settling Defendant's 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, are permanently restrained and enjoined from, directly or indirectly:

A. Failing to provide sufficient customer information to enable Plaintiffs to efficiently administer consumer redress. If a representative of either Plaintiff requests in writing any information related to redress, Settling Defendant must provide it, in the form prescribed by that Plaintiff, 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 Settling Defendant obtained prior to entry of this Order in connection with marketing or sale of Debt Relief Products or Services; 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 Plaintiffs.

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 the Settling Defendant must fully cooperate with representatives of Plaintiffs in this case and in any investigation related to or associated with the transactions or the occurrences that are the subject of the Amended Complaint. Settling Defendant must provide truthful and complete information, evidence, and testimony. Settling Defendant must appear for interviews, discovery, hearings, trials, and any other proceedings that a representative of either Plaintiff may reasonably request upon 5 days written notice, or other reasonable notice, at such places and times as the representative may designate, without the service of a subpoena.

VIII. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Settling Defendant obtains acknowledgments of receipt of this Order:

A. Settling Defendant, within 7 days of entry of this Order, must submit to Plaintiffs an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For 20 years after entry of this Order, Settling Defendant, for any business that he individually or collectively with any other One Easy Defendant, is the majority owner or controls directly or indirectly, 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 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 Person to which Settling Defendant delivered a copy of this Order, Settling Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

IX. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that the Settling Defendant make timely submissions to Plaintiffs:

A. One year after entry of this Order, Settling Defendant must submit a compliance report, sworn under penalty of perjury:

1. Settling Defendant must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission and Florida Attorney General may use to communicate with Settling Defendant; (b) identify all of Settling 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 Settling Defendant must describe if he knows or

should know due to his involvement); (d) describe in detail whether and how Settling 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 Plaintiffs.

2. Additionally, Settling 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 Settling Defendant performs services whether as an employee or otherwise and any entity which Settling Defendant has any ownership interest; and (c) describe in detail Settling 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, Settling Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. Settling Defendant must report any change in: (a) any designated point of contact; or (b) the structure of any entity that Settling 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 of any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

2. Additionally, Settling Defendant must report any change in: (a) name, including aliases or fictitious names, or residence address; or (b) title or role in any business activity, including any business for which he performs services, whether as an employee or otherwise, and any entity in which he has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity.

C. Settling Defendant must submit to Plaintiffs notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against that Settling Defendant within 14 days of its filing.

D. Any submission to Plaintiffs 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 Plaintiffs’ 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. Matthew B. Thomas, X150051. All submissions to the Florida Attorney General pursuant to this Order must be emailed to cpenforcement@myfloridalegal.com or sent to: Office of The Attorney General, Director of Consumer Protection Division, 3507 East Frontage Road #325, Tampa, Florida 33607.

X. RECORDKEEPING

IT IS FURTHER ORDERED that Settling Defendant must create certain records for 20 years after entry of this Order, and retain each such record for 5 years. Specifically, the Settling Defendant, for any business that Settling 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 Plaintiffs; and

E. a copy of each unique advertisement or other marketing material.

XI. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Settling Defendant's 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 14 days of receipt of a written request from a representative of either Plaintiff, the Settling Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; and appear for depositions; and produce documents for inspection and copying. Plaintiffs are 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, Plaintiffs are authorized to communicate directly with Settling Defendant. Settling Defendant must permit representatives of Plaintiffs to interview any employee or other individual affiliated with Settling Defendant who has agreed to such an interview. The individual interviewed may have counsel present.

C. Plaintiffs may use all other lawful means, including posing, through their representatives as consumers, suppliers, or other individuals or entities, to Settling Defendant, or any individual or entity affiliated with Settling Defendant, 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 or the Florida Attorney General, any consumer reporting agency must furnish consumer reports concerning the E.M. Individuals, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. §1681b(a)(1).

XII. 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.

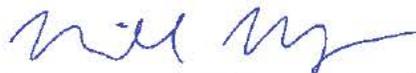
SO ORDERED this ___ day of _____, 2016.

STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE

STIPULATED:

Plaintiffs:

FEDERAL TRADE COMMISSION



NICHOLAS M. MAY, DC Bar # 979754

nmay@ftc.gov

ANNA M. BURNS, GA Bar # 558234

aburns@ftc.gov

225 Peachtree Street NE, Ste 1500

Atlanta, GA 30303

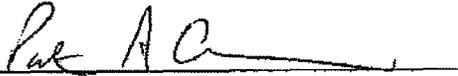
Phone: 404-656-1360 (May)

404-656-1350 (Burns)

Fax: 404-656-1390

Counsel for Plaintiff Federal Trade Commission

OFFICE OF ATTORNEY GENERAL, STATE OF FLORIDA, DEPARTMENT OF LEGAL
AFFAIRS



Patricia A. Conners
Deputy Attorney General
Office of the Attorney General
State of Florida
Department of Legal Affairs
PL-01, The Capitol
Tallahassee, Florida 32399-1050

and

Jennifer Hayes Pinder
Julia Harris
Office of the Attorney General
State of Florida
Department of Legal Affairs
3507 East Frontage Road #325
Tampa, Florida 33607
Tel: (813) 287-7950
Fax: (813) 281-5515
Email: jennifer.pinder@myfloridalegal.com
Email: julia.harris@myfloridalegal.com

*COUNSEL for Plaintiff Office of the Attorney General,
State of Florida, Department of Legal Affairs*

Defendant:

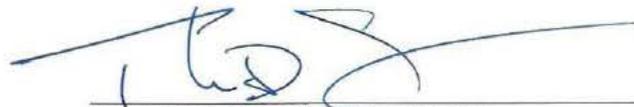
Dated: 8/11/14



MATTHEW B. THOMAS

For Defendant:

Dated: 8/11/16



THOMAS D. SOMMERVILLE
Florida Bar #0141682
529 North Magnolia Ave.
Orlando, FL 32801
Phone: (407) 426-1204

Counsel for Defendant Matthew B. Thomas