

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
SOUTHERN DIVISION

FEDERAL TRADE COMMISSION
600 Pennsylvania Avenue, N.W.
Washington, DC 20580,

Plaintiff,

v.

PASSPORT IMPORTS, INC., a corporation,
also d/b/a PASSPORT TOYOTA
5050 Auth Way
Marlow Heights, Maryland 20746
Prince George's County,

PASSPORT MOTORCARS, INC., a corporation,
also d/b/a PASSPORT INFINITI OF ALEXANDRIA,
PASSPORT NISSAN OF ALEXANDRIA, and
PASSPORT NISSAN OF MARLOW HEIGHTS
150 S. Pickett Street
Alexandria, Virginia 22304,

AUTOS INTERNATIONAL, INC., a corporation,
also d/b/a PASSPORT INFINITI OF SUITLAND
4800 Branch Avenue
Suitland, Maryland 20746
Prince George's County,

EVERETT A. HELLMUTH, III, individually and as an
officer of PASSPORT IMPORTS, INC., PASSPORT
MOTORCARS, INC., and AUTOS INTERNATIONAL,
INC.
5050 Auth Way
Marlow Heights, Maryland 20746
Prince George's County,

JAY A. KLEIN, individually and as an officer of
PASSPORT IMPORTS, INC., PASSPORT
MOTORCARS, INC., and AUTOS INTERNATIONAL,
INC.
5050 Auth Way
Marlow Heights, Maryland 20746
Prince George's County,

TEMECULA EQUITY GROUP, LLC, a limited liability
company, also d/b/a OVERFLOWWORKS.COM
25220 Hancock Avenue, #220
Murrieta, California 92562, and

Civil Action No. 8:18-cv-03118-PX

STIPULATED ORDER FOR
PERMANENT INJUNCTION

JEFFREY R. BUSH, individually and as an officer of
TEMECULA EQUITY GROUP, LLC
25220 Hancock Avenue, #220
Murrieta, California 92562,

Defendants.

Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), filed its Complaint for Permanent Injunction and Other Equitable Relief (“Complaint”) in this matter, pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b). The Commission and Defendants stipulate to the entry of this Order for Permanent Injunction and 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 acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, in connection with the mailing of vehicle recall notices to thousands of consumers.
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:

I. “Corporate Defendants” means Passport Imports, Inc. (“Passport Imports”), also doing business as Passport Toyota; Passport Motorcars, Inc. (“Passport Motorcars”), also doing business as Passport Infiniti of Alexandria, Passport Nissan of Alexandria, and Passport Nissan of Marlow Heights; Autos International, Inc. (“Autos International”), also doing business as Passport Infiniti of Suitland; and their successors and assigns.

II. “Individual Defendants” means Everett A. Hellmuth, III, individually and as an officer of Passport Imports, Inc., Passport Motorcars, Inc., and Autos International, Inc.; Jay A. Klein, individually and as an officer of Passport Imports, Inc., Passport Motorcars, Inc., and Autos International, Inc.; and their successors and assigns.

III. “Defendants” means the Individual Defendants and the Corporate Defendants, collectively, individually, or in any combination, and their successors and assigns.

IV. “Motor Vehicle” means:

1. Any self-propelled vehicle designed for transporting persons or property on a street, highway, or other road;
2. Recreational boats and marine equipment;
3. Motorcycles;
4. Motor homes, recreational vehicle trailers, and slide-in campers; and
5. Other vehicles that are titled and sold through dealers.

ORDER

I. PROHIBITION AGAINST MISREPRESENTATIONS

IT IS 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, sale, lease, servicing, or offering for sale, lease, or servicing of Motor Vehicles, are permanently restrained and enjoined from misrepresenting, expressly or by implication:

- A. whether any Motor Vehicle is subject to an open safety recall or service campaign; or
- B. any other material fact about the safety, recall status, or servicing of any Motor Vehicle.

II. 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 10 years after entry of this Order, each Individual Defendant for any business of which he is the majority owner or that he 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.

III. 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 each 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 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 the 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. 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 a 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.

C. Additionally, each 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 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.

D. 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.

E. 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.

F. 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. Passport Imports, Inc., et al., Matter No. X:_____.

IV. 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 each Individual Defendant for any business of which he, individually or collectively with any other Defendants, is a majority owner or that he 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 notice sent to consumers pertaining to vehicle recalls.

V. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants' compliance with 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. Defendants 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.

VI. 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 27th day of November 2018.



UNITED STATES DISTRICT JUDGE

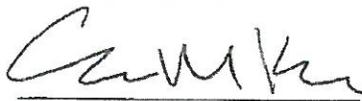
SO STIPULATED AND AGREED:

FOR PLAINTIFF FEDERAL TRADE COMMISSION:



Thomas E. Kane
Rebecca M. Unruh, Attorneys
Federal Trade Commission
600 Pennsylvania Ave., NW
Mail Drop CC-10232
Washington, DC 20580
Telephone: (202) 326-2304, (202) 326-3565
Facsimile: (202) 326-3768
Email: tkane@ftc.gov; runruh@ftc.gov

FOR DEFENDANTS:

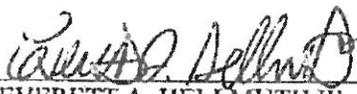


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COUNSEL for Passport Imports, Inc.,

Date: 7/3/18

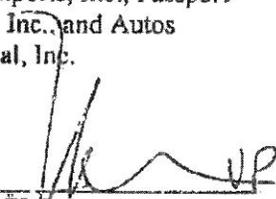
Passport Motorcars, Inc.,
Autos International, Inc., Everett A.
Hellmuth, III, and Jay A. Klein

**DEFENDANTS: Passport Imports, Inc., Passport Motorcars, Inc., Autos
International, Inc., Everett A. Hellmuth, III, and Jay A. Klein**



EVERETT A. HELLMUTH III,
Individually and as an officer of
Passport Imports, Inc., Passport
Motorcars, Inc., and Autos
International, Inc.

Date: 7/3/2018



JAY A. KLEIN,
Individually and as an officer of
Passport Imports, Inc., Passport
Motorcars, Inc., and Autos
International, Inc.

Date: 7/3/18