

RECEIVED
STATESVILLE, NC

JUL 20 2005

Clerk, U. S. Dist. Court
W. Dist of N. C.

UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF NORTH CAROLINA

Case No. 5:04cv49

FILED
STATESVILLE, N.C.

AUG 2 2005

U.S. DISTRICT COURT
W. DIST. OF NC

FEDERAL TRADE COMMISSION,)

Plaintiff,)

vs.)

TELEPHONE PROTECTION AGENCY, INC.,)
North Carolina)

ROBERT THOMPSON,)

GREG THOMPSON,)
indiv. plaintiff)

Rule" (the "TSR" or the "Rule"), 16 C.F.R. Part 310. The Commission and Defendant Alex McKaughn hereby agree to the entry of this Stipulated Judgment and Order for Permanent Injunction ("Order").

THEREFORE, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

FINDINGS

1. This Court has jurisdiction over the subject matter and the Defendant pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, and under 15 U.S.C. §§ 45(a), 53(b), 57b, 6102(c), and 6105(b). Venue is proper as to the Defendant in the Western District of North Carolina under

28 U.S.C. §§ 1391(b) and (c), and 15 U.S.C. § 53(b).

2. The activities of the Defendant were in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

3. The Complaint states a claim upon which relief may be granted to the FTC under Sections 5(a)(1), 13(b) and 19 of the Federal Trade Commission Act (FTCA), 15 U.S.C. §§ 5, 13, and 19.

6. Defendant waives all rights to seek judicial review or otherwise challenge or

contest the validity of this Order. Defendant further

5. "Telemarketing" means any plan, program, or campaign (whether or not covered by the Telemarketing Sales Rule, 16 C.F.R. Part 310), that is conducted to induce the purchase of goods or services by means of the use of one or more telephones.

ORDER

I. PERMANENT BAN

IT IS THEREFORE ORDERED that Defendant *ABC, INC.*

restrained and enjoined from engaging or participating in, or assisting or facilitating, any telemarketing of any kind, in any manner or capacity whatsoever, directly or indirectly, individually or through any corporation, subsidiary, division or other device.

II. PROHIBITION AGAINST MISREPRESENTATIONS

IT IS FURTHER ORDERED that in connection with the advertising, promotion,

offering for sale, or sale of goods or services by means of one or more telephones,

B. Defendant can or will register a consumer with, or enroll him or her in, any federal, state or private list or program to prevent or limit unsolicited telemarketing calls, including the

National Do Not Call Registry maintained by the FTC;

C. Defendant can or will protect or enhance a consumer's privacy or the

1. Notifying telemarketers, direct and electronic mail marketers.

otherwise, whether acting directly or indirectly through any corporation, subsidiary, division, or

~~other device, are hereby permanently restrained and enjoined from~~

become immediately due and payable, together with interest computed at the rate prescribed under

28 U.S.C. § 1961

Defendant Alex McLaughlin agrees that the facts as alleged in the Complaint are true.

connection with any business engaged in telemarketing, provided however that the

B. Defendant Alex McKaughn as employee or non-control person: For any

business where Defendant Alex McKaughn is not controlling

which he otherwise engages in conduct related to the subject matter of this Order, Defendant Alex

McKaughn

[REDACTED]

and

2 Defendant Alex McKaughn shall notify the Commission of any change in

[REDACTED]

the corporate structure of any business entity that he directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under this Order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor entity, the creation or dissolution of

[REDACTED]

business and the title and responsibilities he has for each such company.

3. Any other changes required to be reported under Paragraph VIII.A;
4. A copy of each acknowledgment of receipt of this Order obtained pursuant

to Paragraph VII.C; and

5. Any other changes required to be reported under Paragraph VIII.A;

C For the purposes of this Order, Defendant shall have the burden of proving that

Commission's authorized representatives, mail all written notifications to the Commission to:

Associate Director for Marketing Practices

Federal Trade Commission

600 Pennsylvania Ave. N.W. Rm. H 238

generated, and the disbursement of such revenues;

B. Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by such business, including as an independent contractor; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;

C. Customer files containing the names, addresses, telephone numbers, and

amounts paid, quantity of items or services purchased, and description of items or services purchased, to the extent such information is stored in a computer system;

D. Complaints and refund requests (whether received directly, indirectly or through any third party) and any responses to those complaints or requests;

X. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring and investigating compliance with any provision of this Order:

- A. Within ten (10) days of receipt of written notice from a representative of the Commission, Defendant Alex McKeown shall submit additional

obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

IT IS FURTHER ORDERED

IT IS FURTHER ORDERED that each party to this Order, having agreed to do so, shall bear its own costs and attorneys' fees incurred in connection with this Order.

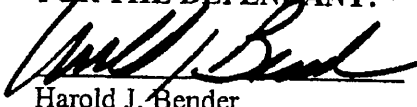
[REDACTED]

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for the purpose of construction, modification and enforcement of this Order.

FOR THE PLAINTIFF:

William Blumenthal
General Counsel

FOR THE DEFENDANT:

 Date: 5/2/05

Harold J. Bender
Law Offices of Harold J. Bender
200 North McDowell Street
Charlotte, North Carolina 28204
Attorney for Defendant Alex McKen...