



IN THE UNITED STATES DISTRICT COURT

**FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

_____)
FEDERAL TRADE COMMISSION,)
)
Plaintiff,)
)
v.)
)
Centurion Financial Benefits LLC, <i>et al.</i> ,)
)
Defendants.)
_____)

Civil Action No. 05 C 5442
Judge Moran
Magistrate Denlow

STIPULATED ORDER FOR PERMANENT INJUNCTION AND FINAL JUDGMENT

AGAINST DEFENDANT SYLVAIN CHOLETTE

Plaintiff, the Federal Trade Commission ("FTC" or "the Commission"), commenced this action by filing its Complaint followed by a First Amended Complaint for injunctive and other

NOW, THEREFORE, the Commission and Defendant Sylvain Cholette, having requested the Court to enter this Stipulated Order, and the Court, having considered the Stipulated Order reached among the parties and for other cause appearing, it is **ORDERED, ADJUDGED, AND DECREED** as follows:

FINDINGS

1. This is an action by the Commission instituted under Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, the Telemarketing Act, 15 U.S.C. §§ 6101, *et seq.*, and the FTC's Telemarketing Sales Rule, 16 C.F.R. Part 310. Pursuant to these statutes and regulations, the Commission has the authority to seek the relief contained herein.

2. The Commission's First Amended Complaint states a claim upon which relief may be granted against Defendant Sylvain Cholette under Sections 5, 13(b), and 19 of the FTC Act, 15 U.S.C. §§ 45, 53(b) and 57b, the Telemarketing Act, 15 U.S.C. §§ 6101, *et seq.*, and the FTC's Telemarketing Sales Rule, 16 C.F.R. Part 310.

3. This Court has jurisdiction over the subject matter of this case and all parties hereto.

4. Venue in the United States District Court for the Northern District of Illinois is proper under 15 U.S.C. § 53(b) and 28 U.S.C. § 1391(b), (c), and (d).

5. The alleged activities of Defendant Sylvain Cholette are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

7. The parties shall each bear their own costs and attorneys' fees incurred in this action and have waived all claims under the Equal Access to Justice Act, 28 U.S.C. § 2412, and all rights to seek judicial review, or otherwise to challenge the validity of this Stipulated Order.

8. This Order is in addition to and not in lieu of any other civil or criminal remedies that may be provided by law.

DEFINITIONS

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

card or bank account payment and collection system; and (6) providing marketing or customer service support.

general partnership, corporation, or other business entity.

5. "Credit-related products, programs, or services" means any product, program, or service which is advertised, offered for sale, or sold to consumers as a method by which

[REDACTED]

the Telemarketing Sales Rule, 16 C.F.R. Part 310) which is conducted to induce the purchase of goods or services or a charitable contribution, by use of one or more telephones.

ORDER

I.

[REDACTED]

IT IS FURTHER ORDERED that, in connection with the advertising, marketing, promoting, offering for sale, or sale of any product, program, or service, Defendant Sylvain

Chalotte and his officers, agents, directors, servants, employees, independent

[REDACTED]

Rule, 16 C.F.R. Part 310, *et seq.*, including, but not limited to:

1. Violating Section 310.3(a)(2) of the Telemarketing Sales Rule, 16 C.F.R. § 310.3(a)(2), by misrepresenting, directly or by implication, any material aspect of the performance, efficacy, nature, or central characteristics of goods or services that are the subject of a sales offer, 16 C.F.R. § 310.3(a)(2)(iii);
2. Violating Section 310.4(a)(4) of the Telemarketing Sales Rule, 16 C.F.R. § 310.4(a)(4), by requesting or receiving payment of any fee or consideration in advance of obtaining or arranging an extension of credit when they have guaranteed or represented a high likelihood of success in obtaining or arranging an extension of credit;
3. Violating Section 310.4(b)(1)(iii)(B) of the TSR, 16 C.F.R. § 310.4(b)(1)(iii)(B), by engaging in or causing others to engage in initiating an outbound telephone call to a person's telephone number on the National Do Not Call Registry; and
4. Violating Section 310.8 of the TSR, 16 C.F.R. § 310.8, by initiating, or

restitution for consumer injury relief; *provided, however*, that this judgment shall be suspended until further Order of the Court pursuant to Section III of this Order (Right to Reopen), and provided further that this judgment shall be subject to the conditions set forth in Section V.

B. All funds paid pursuant to Section II and/or Section III shall be deposited into a fund administered by the Commission or its agent to be used for equitable relief, including, but

not limited to, the following: [REDACTED]

equitable relief. Defendant Sylvain Cholette shall cooperate fully to assist the Commission in

identifying consumers who may be entitled to redress pursuant to this Order. In the event that

proceeding, Defendant Sylvain Cholette waives any right to contest any allegations in Plaintiff's First Amended Complaint; and

F. Nothing herein shall be deemed or construed to prevent the Commission from initiating any appropriate proceedings to enforce the provisions of this Order.

III.

RIGHT TO REOPEN; ACCURACY OF FINANCIAL STATEMENT

IT IS FURTHER ORDERED that within five (5) business days after the date of entry of this Stipulated Order, Defendant Sylvain Cholette shall submit to the Commission a truthful

~~and accurate financial statement that shall be filed with the Commission and the Commission shall~~

the Financial Statement of Individual Defendant executed by Defendant Sylvain Cholette on

November 18, 2005. The Commission's agreement to this Stipulated Order is hereby

amount already paid.

Provided however, that in all other respects this judgment shall be in full force and effect.

effect, unless otherwise ordered by the Court; and *provided further*, that proceedings instituted under this Section are in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including, but not limited to, contempt proceedings, or any other proceedings that the Commission or the United States might initiate to enforce this Stipulated Order.

IV.

CUSTOMER LISTS

IT IS FURTHER ORDERED that Defendant Sylvain Cholette, and his officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other

[REDACTED]

[REDACTED]

Provided, however, that Defendant Sylvain Cholette, and his officers, agents, directors,

[REDACTED]

[REDACTED]

affiliates, successors, and assigns, and all other persons or entities in active concert or

[REDACTED]

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 Sylvain Cholette shall submit additional written reports, sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and/or provide entry during normal business hours to any business location in Defendant's possession or direct or indirect control to inspect the business operation;

B. In addition, the Commission is authorized to monitor compliance with this Order by all other lawful means, including, but not limited to, the following:

1. obtaining discovery from any person, without further leave of court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45; and

2. posing as consumers and suppliers to: Defendant Sylvain Cholette, his employees, or any other entity managed or controlled in whole or in part by Defendant, without the necessity of identification or prior notice; and

C. Defendant Sylvain Cholette shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, agent, or employee

who has agreed to such an interview, relating in any way to any conduct subject to this Order.

deceptive acts or practices in or affecting commerce (within the meaning of
15 U.S.C. § 45(a)(1)).

VII.

COMPLIANCE REPORTING BY DEFENDANT

IT IS FURTHER ORDERED that, in order that compliance with the provisions of this
Order may be monitored:

A. For a period of five (5) years from the date of entry of this Order,

Defendant Sylvain Chelette shall notify the Commission of the following:

a. Any changes in his residence, mailing addresses, and telephone

numbers within ten (10) days of the date of such

result in the emergence of a successor entity; the creation or dissolution of a subsidiary, parent, or affiliate that on

change, *provided* that with respect to any proposed change in the corporation about which the

Commission to:

Associate Director for Enforcement
Federal Trade Commission
601 New Jersey Avenue N.W.
Washington, D.C. 20580
Re: FTC v. Centurion Financial Benefits LLC, et al., Civil Action No. 05C 5447.

D. For purposes of the compliance reporting required by this Order, the Commission

VIII.

MONITORING COMPLIANCE OF SALES PERSONNEL

IF IS FURTHER ORDERED that Defendant Sylvain Cholette, in connection with any business where he is the majority owner of the business or directly or indirectly manages or controls the business, and where the business is engaged in telemarketing, or assisting others engaged in telemarketing, is hereby permanently restrained and enjoined from:

A. Failing to take reasonable steps sufficient to monitor and ensure that all employees and independent contractors engaged in sales or other customer service functions comply with Section I of this Stipulated Order. Such steps shall include adequate monitoring of sales presentations or other calls with customers, and shall also include, at a minimum, the following: (1) listening to the oral representations made by persons engaged in sales or other customer service functions; (2) establishing a procedure for receiving and responding to consumer complaints; and (3) ascertaining the number and nature of consumer complaints regarding transactions in which each employee or independent contractor is involved;

C. Failing to take corrective action with respect to any sales person whom Defendant Sylvain Cholette determines is not complying with this Order, which may include training, disciplining, and/or terminating such sales person.

IX.

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry

of this Order, in connection with any business where (1) Defendant Sylvain Cholette is the

engaged in, or assists others in engaging in, telemarketing, Defendant Sylvain Cholette and his

[REDACTED]

any third party) and any responses to those complaints or requests;

E. Copies of all sales scripts, training materials, advertisements, or other marketing materials; and

copy of this Order to all principals and managers of such business before engaging in such conduct.

C Defendant Sylvain Cholette must secure a signed and dated statement

acknowledging receipt of the Order and the Permanent Injunction, within thirty (30) days of delivery, from all persons receiving a copy of the Order pursuant to this Section.

XI.

ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANT

IT IS FURTHER ORDERED that Defendant Sylvain Cholette, within five (5) business days of receipt of this Order as entered by the Court, must submit to the Commission a truthful sworn statement acknowledging receipt of this Order.

XII.

RETENTION OF JURISDICTION

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

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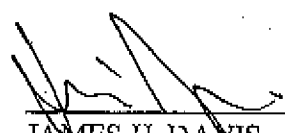
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The Commission and D.C. v. [REDACTED]

the foregoing Stipulated Order, which shall constitute a final judgment in this action.

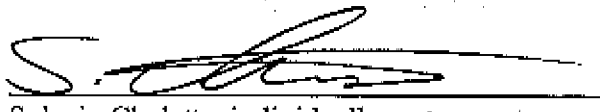
SIGNED AND STIPULATED BY:

Dated: April 24, 2007



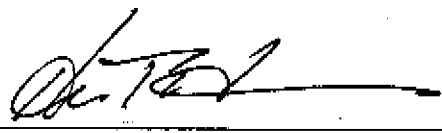
JAMES H. DAVIS
Attorney for Plaintiff
Federal Trade Commission

Dated: NOV 1st, 2006



APPROVED AS TO FORM:

Dated: 11/9/06



HECTOR E. LORA
Cove & Associates, P.A.