

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 06-61851-CV-UNAGRO

FEDERAL TRADE COMMISSION
Plaintiff

v.

RANDALL L. LESHIN et. al.
Defendants

¹ Section IX, subsection C of the may 5, 2008 order states:

Sixty-one (61) days after the date that this Order is entered, the Monitor shall send a notice to existing clients who have signed agreements with Randall L. Leshin or Randall L. Leshin, P.A. for debt consolidation services and reside in states in which Express Consolidation, Inc., is not qualified to provide debt management services. The notice shall inform these existing clients of the settlement and state that the existing clients may (a) cancel their Consolidation Services Agreement immediately; or (b) agree to a contract with a debt consolidation services provider identified by the Commission, by sending a form to the Monitor indicating their preference on or before the 120th day following the date [of] this Order. The notice shall also state that if the existing clients do not send such a form to the Monitor on or before the 120th day following the date this Order is entered, their debt management plan will be transferred to the debt consolidation services provider identified by the Commission.

² Section IX, subsection D, of the May 5, 2008 order states:

Sixty-one (61) days after he date that this Order is entered, the Monitor shall send a notice to existing clients who have signed agreements with Randall L. Leshin or Randall L. Leshin, P.A. for debt consolidation services and reside in states in which Express Consolidation, Inc., is qualified to provided debt management services. The notice shall inform these existing clients of the settlement and state tha the existing clients may (a) cancel their contract for debt consolidation services immediately; (b) agree to contract with a debt consolidation services id00 TD(a) Vj12.1200 0.0000 TD(s) Tj3.8400 0.0000 TD(do not

deadline for licensure or other regulatory compliance were unrealistic from the outset; and (iv) that as a matter of public policy and equity, ECI ought to be permitted to service its clients in states where the FTC allegedly impeded ECI's applications even though ECI had not yet succeeded in becoming licensed or otherwise complied with the law regarding its authority to conduct business in particular states.

In response the FTC contended that the Defendants were seeking to evade the consequences of the commitments Defendants made in the Stipulated Injunction and Order. In sum, the FTC argued that the unforeseen obstacles Defendants identified were a combination of false, unsubstantiated accusations and foreseeable circumstances that could have been accounted for prior to Defendants entry

¹ See *Rufo v. Inmates of Suffolk county Jail*, 502 U.S. 367 (1992)(setting forth standard for modifying a consent decree.)

¹ Definition S of the Stipulated Injunction and Order states:

Express Consolidation, Inc. is “qualified to provide debt management services” in a state as that phrase is used in this Order if:

- (1) The state does not issue licenses for entities that offer or provide debt consolidation services and, thirty (30) days after the date his Order is entered, Express Consolidation, Inc. has fulfilled any requirements imposed by state law to provided such services including any registration, reporting, audit, insurance, escrow account or trust account requirement; or
- (2) The state issues licenses for entities that offer or provide debt consolidation services, and sixty (60) days after this Order is entered, Express Consolidation, Inc.,

receive the subparagraph D notice pursuant to Section IX of the Stipulated Injunction and Order.

On July 16, 2008 the parties filed responses to the Subparagraph D notice. (Mo rgfor Guidan000 TD95Co

process an applications “under ordinary circumstances,” Defendants should and could have reasonably anticipated from the attendant publicity to the original FTC action against Defendants, the publicity that surrounded the settlement itself in the debt management industry, and the protracted and complicated settlement negotiations that led to the resolution of this matter, that circumstances likely would arise which would protract the regulatory process. In light of the foregoing, the Court finds no equitable basis for modifying or extending the deadlines to which Defendant previously agreed in the Stipulated Injunction and Order. Accordingly Defendant’s motion for emergency relief from final judgment is DENIED.

REVISED MOTION FOR GUIDANCE AND CLARIFICATION

As to the questions raised in the Court-Appointed Monitor’s Revised Motion for Guidance and Clarification, the undersigned incorporates by reference her findings at and the transcript of the hearing. Based on those findings, it is hereby,

ORDERED and ADJUDGED as follows:

1. Pursuant to Definition S of the Stipulated Injunction and Order, the applicable state statutes and regulations, and the evidence submitted, the Court finds Defendants are not qualified to conduct debt management services in Florida, Georgia, Kentucky, Ohio, Texas, Tennessee, California, North Dakota, Nevada, New Mexico, and California. The Court-Appointed Monitor shall send a subparagraph C notice to Defendants’ clients in these states.

2. Pursuant to Definition S of the Stipulated Injunction and Order, the applicable state statutes and regulations, and the evidence submitted, the Court finds Defendant is qualified to conduct debt management services in the states of Nebraska, Michigan, Wisconsin, and New

Mexico. The Court-Appointed Monitor shall send a subparagraph D notice to Defendants' clients in these states.

3. The Court finds Defendants are not qualified to perform debt management services to clients, in Colorado, Delaware, Indiana, Iowa, Kansas, Minnesota, New Hampshire, Rhode Island, South Carolina and Virginia since Defendants have failed to obtain licenses in these states within the timetable set by the Stipulated Injunction and Order. The Court-Appointed Monitor shall send a subparagraph C notice to Defendants' clients in these states.

4. The Court-Appointed Monitor shall issue all self-executing notice and transfer of 538.8000 TD0

