

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 0:15-cv-60423-WJZ

FEDERAL TRADE COMMISSION ,  
STATES OF COLORADO, FLORIDA ,  
INDIANA, KANSAS , MISSISSIPPI,  
MISSOURI, NORTH CAROLINA ,  
OHIO, TENNESSEE, and WASHINGTON,

Plaintiffs,

v.

CARIBBEAN CRUISE LINE, INC ., et al

Defendants.

STIPULATED ORDER FOR  
PERMANENT INJUNCTION AND CIVIL PENALTY JUDGMENT  
AGAINST CARRIBBEAN CR UISE LINE, INC.

The Federal Trade Commission (“Commission”/“FTC”), and the States of Colorado, Florida, Indiana, Kansas, Mississippi, Missouri, North Carolina, Ohio and Washington through their Attorneys General, and the State of Tennessee through the Tennessee Regulatory Authority

## **FINDINGS**

1. This Court has jurisdiction over this matter.
2. The Complaint charges that CCL engaged in deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FTC's Telemarketing Sales Rule (the "TSR"), as amended, 16 C.F.R. Part 310, in the Telemarketing of its products and services.
3. CCL neither admits nor denies any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, CCL admits the facts necessary to establish jurisdiction.
4. CCL waives any claim that it 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 agrees to bear its own costs and attorney fees. CCL waives and releases any claims that it may have against Plaintiffs, the Commission, and their agents that relate to this action.
5. CCL and Plaintiffs 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:

- A. **"Caller Identification Service"** means a service that allows a telephone subscriber to have the telephone number, and, where availabl

solicit charitable contributions.

D. “**Entity-Specific Do Not Call List**” means a list of telephone numbers maintained by a Seller or Telemarketer of persons who have previously stated that they do not wish to receive Outbound Telephone Calls made by or on behalf of the Seller or Telemarketer.

E. “**Established Business Relationship**” means a relationship between a Seller and a person based on: (a) the person’s purchase, rental, or lease of the Seller’s goods or services or a financial transaction between the Seller and person, within the eighteen months immediately preceding the date of the Telemarketing call; or (b) the person’s inquiry or application regarding a product or service offered by the Seller, within the three months immediately preceding the date of a Telemarketing call.

F. “**Lead Generator**” means any person that provides, in exchange for consideration, consumer information to a Seller or Telemarketer for use in the Telemarketing of any goods or services.

G. “**National Do Not Call Registry**” means the National Do Not Call Registry, which is the “do-not-call” registry maintained by the Commission pursuant to 16 C.F.R. § 310.4(b)(1)(iii)(B).

H. “**Outbound Telephone Call**” means a telephone call initiated by a telemarketer to induce the purchase of goods or services or to solicit a charitable contribution.

I. “**Representatives**” means the following who receive actual notice of this Order by personal service or otherwise: CCL’s officers, agents, servants, employees, and those persons in active concert or participation with them.

J. “**Seller**” means any person who, in connection with a telemarketing transaction, provides, offers to provide, or arranges for others to provide goods or services to the customer in exchange for consideration, whether or not such person is under the jurisdiction of the Commission.

K.     **“Telemarketer”** means any person who, in connection with telemarketing, initiates or receives telephone calls to or from a customer or donor.

L.     **“Telemarketing”** means a 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 more than

be placed to that person, and shall include the telephone number to which the calls may be placed and the signature (including an electronic or digital form of signature, to the extent that such form of signature is recognized as a valid signature under applicable federal law or state contract law) of that person; or

2. CCL has an Established Business Relationship with such person, and that person has not stated that he or she does not wish to receive Outbound Telephone Calls made by or on behalf of CCL.

B. Initiating any Outbound Telephone Call to a person when that person has previously stated that he or she does not wish to receive an Outbound Telephone Call made by or on behalf of CCL, unless subsequent to such statement, CCL has:

1. obtained another express agreement as specified in Section I.A.1 above;  
or
2. has a new Established Business Relationship with such person.

C. Initiating any Outbound Telephone Call where CCL or its Representatives fail to transmit or cause to be transmitted the telephone number, and, when made available by the Telemarketer's carrier, the name of the Telemarketer, to any caller identification service in use by a recipient of a Telemarketing call; provided that it shall not be a violation to substitute (for the name and phone number used in, or billed for, making the call) the name of the seller or charitable organization on behalf of which a Telemarketing call is placed, and the seller's or charitable organization's customer or donor service telephone number, which is answered during regular business hours.

D. Initiating any Outbound Telephone Call that delivers a prerecorded message,

A. CCL or its Representatives shall, within ninety (90) days of the date of entry of this Order:

1. Review and determine the methods used by CCL's existing Lead Generators to obtain the leads sold or offered for sale to CCL and, if those leads were obtained by means of an Outbound Telephone Call that does not comply with this Order, CCL shall immediately cease purchasing leads from the Lead Generator unless and until CCL confirms that the Lead Generator is in compliance pursuant to the requirements specified in Section II.B below;
2. Provide, electronically or otherwise, CCL's existing Lead Generators that use Outbound Telephone Calls to generate leads with: (i) a copy of this Order; and (ii) a written notice stating that, if such Lead Generator sells any leads to CCL that do not comply with this Order, CCL will immediately cease purchasing leads from such Lead Generator; and
3. Obtain from all of CCL's existing Lead Generators provided notice pursuant to Section II.A.2 above an electronic acknowledgment or other signed and dated statement acknowledging receipt of this Order and the written notice set forth in the preceding subparagraph.

B. Prior to purchasing leads from any new Lead Generator, CCL shall:

1. Review and determine the methods used by the Lead Generator to obtain leads offered for sale to CCL and, if those leads were obtained by means of a telephone call that does not comply with this Order, CCL is prohibited from purchasing such leads;

2. For any Lead Generator previously terminated pursuant to Section II.A.1 above, conduct additional reviews, as specified in Section II.B.1 above, on a quarterly basis for one (1) year to ensure continued compliance with this Order;
3. Provide, electronically or otherwise, CCL's Lead Generators that use Outbound Telephone Calls to generate leads with: (i) a copy of this Order; and (ii) a written notice stating that, if such Lead Generator sells any leads to CCL that do not comply with this Order, CCL will immediately cease purchasing leads from such Lead Generator; and
4. Obtain from each new Lead Generator provided notice pursuant to Section II.B.3 above an electronic acknowledgment or other signed and dated statement acknowledging receipt of this Order and the written notice set forth in the preceding subparagraph.

**III. MONETARY JUDGMENT FOR CIVIL PENALTY AND PARTIAL SUSPENSION**

IT IS FURTHER ORDERED that:

- A. Judgment in the amount of Seven Million Seven Hundred Thirty Thousand Dollars (\$7,730,000) is entered in favor of Plaintiffs against CCL as a civil penalty.
- B. CCL is ordered to pay to Plaintiffs, by making payments totaling Five Hundred Thousand Dollars (\$500,000), which, as CCL stipulates upon the execution of this Order, its undersigned counsel now holds in escrow for no purpose other than payment to Plaintiffs, apportioned as follows:
  1. \$200,000 to the Treasurer of the United States;




2. \$24,094.11 to the State of Colorado;
3. \$63,751.61 to the State of Florida;
4. \$26,342.51 to the State of Indiana;
5. \$19,995.47 to the State of Kansas;
6. \$20,163.34 to the State of Mississippi;
7. \$25,433.28 to the State of Missouri;
8. \$31,999.45 to the State of North Carolina;
9. \$34,973.21 to the State of Ohio;
10. \$26,213.18 to the State of Tennessee; and
- 11.

CCL's counsel on April 7, April 17, May 14 and June 12, 2014, including the attachments.

- D. The suspension of the judgment will be lifted if, upon motion by the Commission or Plaintiffs, the Court finds that CCL 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.
- E. If the suspension of the judgment is lifted, the judgment becomes immediately due in the amount specified in Subsection A above (which the parties stipulate only for purposes of this Section represents the amount of the civil penalty for the violations alleged in the Complaint), less any payment previously made pursuant to this Section, plus interest computed from the date of entry of this Order.

#### **IV. ADDITIONAL MONETARY PROVISIONS**

IT IS FURTHER ORDERED that:

- A. CCL 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.
  - B. The facts alleged in the Complaint will be
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## **V. COOPERATION**

IT IS FURTHER ORDERED that CCL must fully cooperate with representatives of Plaintiffs and the Commission in this case and in any investigation related to or associated with the transactions or the occurrences that are the subject of the Complaint. CCL must provide truthful and complete information, evidence, and testimony. CCL must cause its Representatives to appear for interviews, discovery, hearings, trials, and any other proceedings that a Plaintiff or Commission representative may reasonably request upon ten (10) days written notice, or other reasonable notice, at such places and times as a Plaintiff or Commission representative may designate, without the service of a subpoena.

## **VI. ORDER ACKNOWLEDGMENTS**

IT IS FURTHER ORDERED that CCL obtain acknowledgments of receipt of this Order:

- A. CCL, within seven (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 three (3) years after entry of this Order, CCL must deliver a copy of this Order to: (1) all principals, officers, directors, and ESOP managers; (2) all employees of CCL who participate in conduct related to the subject matter of the Order; (3) all principals, officers, directors, and managers of CCL's agents and representatives where such agents or representatives participate in conduct related to the subject matter of the Order; and (4) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven (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 CCL delivered a copy of this Order

pursuant to Section VI.B above, CCL must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this Order.

**VII.**

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. CCL must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against CCL within fourteen (14) days of its filing.
- D. 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.
- E. 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. Caribbean Cruise Line, Inc., et al.

### **VIII. RECORDKEEPING**

IT IS FURTHER ORDERED that CCL must create certain records for ten (10) years after entry of the Order, and retain each such record for five (5) years. Specifically, CCL in connection with Telemarketing 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, 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. all records relating to Lead Generators from whom CCL purchased leads, including contracts with such Lead Generators.

#### **IX. COMPLIANCE MONITORING**

IT IS FURTHER ORDERED that, for the purpose of monitoring CCL'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 fourteen (14) days of receipt of a written request from a representative of the Commission or Plaintiffs, CCL 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 and 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, the Commission and Plaintiffs are authorized to communicate directly with CCL. CCL must permit representatives of the













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