

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION**

FEDERAL TRADE COMMISSION and  
FLORIDA OFFICE OF ATTORNEY  
GENERAL, DEPARTMENT OF LEGAL  
AFFAIRS,

Plaintiffs,

vs.

Case No. 3:10-cv-266-J-34JRK

ALCOHOLISM CURE CORPORATION, also  
doing business as Alcoholism Cure  
Foundation, and ROBERT DOUGLAS  
KROTZER, individually and as an officer  
and/or director of Alcoholism Cure  
Corporation,

Defendants.

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**ORDER OF CIVIL CONTEMPT**

This case is before the Court following an October 15, 2014 hearing at which Defendant Robert Douglas Krotzer was directed to appear and show cause why he should not be held in civil contempt for violating the Court's Final Judgment and Order for Permanent Injunctive and Other Equitable Relief Against Defendants Alcoholism Cure Corporation and Robert Douglas Krotzer (Doc. 173; Final Judgment), entered July 3, 2012. (Doc. 192; Order to Show Cause). The transcript of the October 15, 2014 hearing ("Show Cause Hearing") is incorporated in this Order. See Show Cause Hearing Transcript (Doc. 205; Tr.).

## I. Background

On March 29, 2010, the Federal Trade Commission (“FTC”) and the State of Florida (together, “Plaintiffs”) filed a Complaint for Permanent Injunction and Other Equitable Relief (Doc. 1; Complaint) against Defendants Alcoholism Cure Corporation, also doing business as Alcoholism Cure Foundation (“ACF”), and Robert Douglas Krotzer, pursuant to Section 13(b) of the Federal Trade Commission Act (“FTCA”), 15 U.S.C. § 53(b), and the Florida Deceptive and Unfair Trade Practices Act (“FDUTPA”), Fla. Stat. §§ 501.201, et seq. In the Complaint, Plaintiffs alleged claims of deceptive and unfair practices and false advertisements in violation of Sections 5(a) and 12 of the FTCA, 15 U.S.C. §§ 45(a) and 52, and Section 501.204 of the FDUTPA, Fla. Stat. § 501.204. As relief, Plaintiffs sought preliminary and permanent injunctions as well as monetary consumer redress for unfair and deceptive acts and practices by Defendants in connection with Defendants’ representations regarding the Permanent Cure Program, which Defendants represented provided a “cure” for alcoholism. See generally Complaint. The Court granted Plaintiffs’ Unopposed Motion for Entry of a Stipulated Order for Preliminary Injunction (Doc. 10) on May 26, 2010 (Doc. 12). On September 16, 2011, the Court granted Plaintiffs’ Motion for Summary Judgment against Defendant Krotzer as to all counts of the Complaint (Doc. 159) and on July 3, 2012, entered an Order Granting Judgment of Default Against Defendant Alcoholism Cure Corporation (Doc. 171).

The Court entered a Final Judgment on July 3, 2012, in which it determined that a reasonable approximation of consumer injury resulting from Defendants’ violations of the FTCA and FDUTPA is \$732,480.00. Final Judgment ¶ 11. Therefore, the Court ordered that

Defendants pay \$732,480.00 “as equitable monetary relief” to be paid to Plaintiffs within five days of entry of the Final Judgment. Id. § V.A. Additionally, the Court ordered Defendants to provide Plaintiffs with a customer list from the Permanent Cure Program. Id. § VII.A.

Specifically, the Court ordered that

A. Defendants shall, no later than twenty (20) days after the date of entry of this Order, compile and deliver to Plaintiffs a report, in the form of a sworn affidavit, listing all persons who registered for or purchased the Permanent Cure Program, on or after January 1, 2005, through the date of entry of this Order. Such report shall include each person’s name and address, the program(s) purchased (i.e., Heavy Drinker or Very Heavy Drinker), the total amount of moneys paid less any amount credited for returns or refunds, and, if available, the person’s telephone number and email address.

Id. The Court also ordered that



or without compensation; a detailed description of the nature of the business or activity; and a detailed description of his duties and responsibilities in connection with the business, employment, or activity;

c. Any other changes required to be reported under Subsection A of this Section.

2. For all Defendants:

a. A copy of each acknowledgment of receipt of this Order obtained pursuant to the Section title "Distribution of Order"; and

b. Any other changes required to be reported under Subsection A of this Section.

C. For purposes of this Section, "employment" includes the performance of services as an employee, consultant, or independent contractor, and "employers" include any individual or entity for whom Defendant Krotzer performs services as an employee, consultant, or independent contractor.

Id. § X. Last, the Court ordered the Clerk of Court to close the file but retained jurisdiction over this matter "for purposes of construction, modification, and enforcement" of the Final Judgment. Id. § XIII.

On March 19, 2014, Plaintiffs filed the Motion for Order to Show Cause Why Defendant Robert Douglas Krotzer Should Not Be Held in Contempt (Doc. 182; Motion). In the Motion, Plaintiffs asked that the Court enter an order directing Krotzer to show cause why he should not be held in civil contempt for failing to comply with Parts V, VII, and X of the Final Judgment. Motion at 1-2. On May 21, 2014, Krotzer filed Defendant Robert Douglas Krotzer's Amended Response to Motion for Order to Show Cause Why Defendant Robert Douglas Krotzer Should Not Be Held in Contempt (Doc. 189; Response). Upon review of the Response, on September 22, 2014, the Court granted Plaintiffs' Motion (Doc. 192; Order

to Show Cause), finding that the evidence submitted by Plaintiffs established a prima facie case of civil contempt and that Krotzer had not refuted this evidence. Order to Show Cause at 5. The Court scheduled a Show Cause Hearing for October 15, 2014, at which Krotzer was ordered to show cause why he should not be held in civil contempt for failure to comply with the requirements of the Court's Final Judgment. Order to Show Cause at 5-6. Krotzer, along with his attorney, appeared at the Show Cause Hearing. See Clerk's Minutes (Doc. 199). On December 15, 2014, Plaintiffs filed Plaintiffs' Brief and Proposed Findings of Fact and Conclusions of Law in Support of Finding Defendant Robert Douglas Krotzer in Civil Contempt (Doc. 211; Plaintiffs' Brief). Krotzer filed Defendant's Argument and Proposed Findings of Fact and Conclusions of Law in Support of Not Finding Defendant Robert Douglas Krotzer in Civil Contempt (Doc. 212; Defendant's Brief) on January 14, 2015. Accordingly the matter is ripe for review.

## **II. Findings of Fact**

The undersigned makes the following findings of fact, which were proven by clear and convincing evidence and which establish Krotzer's contempt of court as to Parts V, VII, and X of the Final Judgment.

### **A. Part V of the Final Judgment**

Krotzer received at least \$732,480.00 in unjust gains from ACF consumers between 2005 and 2010. See Order on Remedies at 17-19 (Doc. 172). Additionally, Krotzer stipulated that he has failed to pay any of the \$732,480.00 judgment, which the Court

the Court's review of the record reveals that the only indication of an explanation by Krotzer regarding these proceeds is in Krotzer's November 14, 2012 Affidavit ("November 2012 Affidavit"), in which he states





When asked about the source of these deposits, Krotzer testified that during July 2012 and August 2012, his “personal account was the house account” and that his wife gave him money to pay for “household bills and whatever other bills needed to be paid.” Tr. at 26. However, Krotzer later undermined this explanation because he was unable to identify the

Fargo business checking account                      were for \$269.96, which Investigator Sams identified as the amount ACF consumers paid Krotzer for the Permanent Cure Program. Tr. at 87. Krotzer did not disclose to Plaintiffs the existence of the Wells Fargo business checking account                      in any financial disclosures and did not provide bank statements for this account. Id. at 87-88. Additionally, Krotzer did not provide a bank statement for October 2013 for his First Atlantic Bank account                      . Id. at 91-92; Exhibit 6. Moreover, Krotzer had another account with First Atlantic Bank                      under the name Robert D. Krotzer d/b/a multiuniversityuscourtsgrants.org for which he did not submit bank statements to Plaintiffs. Tr. at 93-94; Exhibit 7. Instead, he submitted one document, a Comma Separated Value (CSV) file, showing a deposit of \$100.00 made on March 28, 2014. Tr. at 94-96; Exhibit 7.

A potential source of unreported income is Krotzer's sale of Chihuahua puppies. On September 25, 2013, Krotzer received a civil citation from the City of Jacksonville Animal Care and Protective Services for selling Chihuahua puppies without a proper health

expenses for food, clothing, and utilities, nor has Krotzer disclosed to Plaintiffs his family's total monthly expenses or his family's liabilities. Tr. at 37-39; Exhibit 2, Exhibit 3.

consumers who continued to pay after entry of the Final Judgment, while these consumers were still remitting payments, he did not send those consumers the notice, did not inform them that he was “not permitted to accept payments[.]” and did not inform them that he was “prohibited from collecting on the contracts[.]” Tr. at 44-45. Indeed,

**C. Part X of the Final Judgment**

Krotzer has filed two compliance reports: the November 2012 Affidavit and a second report on February 8, 2014 ("February 2014 Affidavit"), neither of which were timely. Exhibit 1; Exhibit 9; Tr. at 10-11.<sup>9</sup>

Part X of the Final Judgment requires Krotzer to notify Plaintiffs of any changes in or use of any aliases or fictitious names. Final Judgment § X.A.1.c. However, Krotzer's



considered using the alias Rob Brandon[,]” see Exhibit 1 at 1, Krotzer’s compliance reports do not address his use of these .c

F. Supp.2d at 1325; Slimamerica, 2011 WL 882109, at \*3; RCA Credit Servs., LLC, 2011 WL 5924969, at \*1. The absence of willfulness is not a defense to a charge of civil contempt. Leshin, 618 F.3d at 1232. “[S]ubstantial, diligent, or good faith efforts are not enough; the only issue is compliance.” Id. “[I]n a civil contempt proceeding the question is not one of intent but whether the alleged contemnors have complied with the court’s order.” Id. at 1233 (citation omitted).

**B. Conclusions of Law**

The Court finds (and there is no dispute) that clear and convincing evidence demonstrates that the Final Judgment is a valid and lawful order properly entered by the Court. The record is clear and convincing, and Krotzer admits, that he had actual notice of the Final Judgment. The relevant portions of the Final Judgment are clear, definite and unambiguous. Additionally, in light of the evidence presented by Plaintiffs, the Court reaffirms its prior finding that





\$5,669.00 in 2012. Id. at 3-4. Krotzer further argues that the May 2014 Financial Affidavit reflects that he does not have any assets, and as such, he does not have the present ability to pay the monetary judgment. Id. at 4.

Plaintiffs maintain that Krotzer has failed to establish an inability to pay. Plaintiffs' Brief at 4-7. Specifically, Plaintiffs argue that Krotzer has failed to disclose what happened to the \$732,480.00 in ACF proceeds with which he was unjustly enriched and that this lack of disclosure constitutes a failure to meet his burden in establishing an inability defense. Id. at 4. According to Plaintiffs, Krotzer was able to at least partially comply with the monetary judgment: Plaintiffs assert that Krotzer has had various sources of income over the past two years. Id. at 5. Plaintiffs also contend that Krotzer's suggestion that his wife supplied him with the \$16,100.00 deposit is not credible. Id. Further, Plaintiffs point out that Krotzer received approximately \$8,099.00 from ACF consumers post-judgment through September 2013. Id. at 6. Accordingly, Plaintiffs argue that "Defendant's failure to pay the monetary judgment, coupled with his falsified income reporting post-judgment, his failure to provide a complete accounting of the illegal ACF proceeds, and his failure to corroborate his asserted inability to pay or make any good-faith efforts at compliance whatsoever, support finding him to be in contempt for non-compliance with Part V of the Final Judgment." Id. at 7.

Krotzer's burden with regard to the monetary judgment is to show that he has done his "utmost" to comply, i.e., to pay the judgment. Piambino v. Bestline Prods., Inc., 645 F. Supp. 1210, 1214 (S.D. Fla. 1986). Additionally, "[w]hile inability to pay is a defense to civil contempt, inability to pay is not a defense if the contemnor created the inability." Solow, 682 F. Supp. 2d at 1325. It is undisputed that Krotzer has not paid any of the monetary

judgment, and while it may be the case that he presently lacks an ability to pay, Krotzer has failed to establish an inability defense with respect to Part V because he has not shown that he has made, in good faith, all reasonable efforts to comply. See id. at 1330 (stating that a “mere assertion of ‘present inability’ is insufficient to avoid a civil contempt finding”).

In support of this finding, the Court first notes that Krotzer has failed to disclose what happened to the \$732,480.00 he received from ACF consumers. Further, it appears that Krotzer has had assets with which he could have satisfied the judgment, at least partially, despite his testimony at the Show Cause Hearing that his only source of income from “outside sources” for a number of years has been Social Security and his wife’s support. Tr. at 14. Indeed, Krotzer gave no explanation whatsoever as to why the \$8,099.00 in payments he received from ACF customers post-judgment were not used to pay down the Final Judgment. In Combs, the Eleventh Circuit determined that the district court did not err in holding the alleged contemnors in contempt despite the contemnors’ claim of present inability to pay:

Nor was there error in the district court's determination that appellants failed to meet their burden of production. The financial records they submitted were seriously inadequate. The income statements were unverified and based on the representations of [the alleged contemnor], rather than on independent audits. Asset valuations were found to be significantly understated. Financial records were generally incomplete and did not include current statements or tax returns. It may be that [the alleged contemnors] in fact lack the present ability to pay[.] . . . But their failure to make all reasonable efforts to demonstrate that fact for the court means they were properly held in contempt.

Combs, 785 F.2d at 984. Similarly, Krotzer has neither made any payments, nor has he fully disclosed his assets, expenses, and liabilities, and has not fully disclosed his banking records. As noted by the court in Combs, it may be that Krotzer lacks the present inability

to pay the monetary judgment. However, on this record, Krotzer has failed to prevail on his defense of present inability to pay. See United States v. Roberts, 858 F.2d 698, 701 (11th Cir. 1988) (evasive and incomplete testimony will not satisfy burden of production). Accordingly, a finding of civil contempt against Krotzer with respect to Part V is warranted.

## **2. Part VII of the Final Judgment**

With respect to Part VII of the Final Judgment, there is no dispute that Krotzer has failed to produce a complete consumer list and that he has failed to send Attachment A to all ACF consumers. Tr. at 8, 107; Exhibit 12 at 1. Once again, Krotzer defends this charge



after the Court's entry of the Final Judgment, Krotzer has engaged in activity which he should have - but failed to - report under Part X.A. of the Final Judgment. Further, Krotzer's affidavits failed to include information required by Part X.B. of the Final Judgment.

In Defendant's Brief, Krotzer takes issue with Plaintiffs' assertion that he does not "address in detail" the steps taken to comply with the Final Judgment and argues that "the Final Judgment does not set forth what detail [Krotzer] must provide to be in compliance." Defendant's Brief at 7. Yet, bewilderingly, Krotzer also asserts that "[t]he compliance reports

dependence, or other human health-related problems, including, but not limited to, alcoholism, drug addiction, [and] alcohol abuse[.]

Final Judgment § I. And Part II of the Final Judgment directed Krotzer to cease his use of the trade name or trademark “Molecule Multiplicity.” Final Judgment § II. Thus, because Krotzer’s marketing of his book and his use of the term “Molecule

“[t]he court’s discretion, . . . ‘must stay within the bounds of due process.’” United States v.

Saunders





the house” before finally answering that he has “not paid in cash.” Tr. at 35-36. Krotzer also made several statements plainly lacking in credibility. For example, he claimed that in his efforts to comply with the consumer notice requirement, it took him two and a half months to figure out that he could retrieve a consumer’s mailing address by scrolling to the bottom of an e-mail chain. Id. at 68-69. Indeed, as evidenced by his comment at the Show Cause Hearing that he has “certainly had [his] eyes open to what small sums of money occupy a room full of people earning far more than [he] ever made[,]” see id. at 152-53, Krotzer simply has not taken these contempt proceedings seriously. As such, the Court finds that an order of conditional incarceration is reasonable, fair, and appropriate to coerce Krotzer’s compliance with the Final Judgment.

With respect to Krotzer’s compliance with Part V of the Final Judgment, the Court will allow Krotzer to avoid incarceration if, within sixty (60) days of the Court’s entry of this Order, he remits to Plaintiffs the \$8,099.00 in proceeds received by Alcoholism Cure Corporation or ACF post-judgment,<sup>13</sup> and he produces comprehensive documentation, in the form of a declaration or affidavit which is true and accurate and sworn under penalty of perjury, of: (1) his inability to pay the monetary judgment, including all reasonable, good faith attempts made at compliance; (2) a detailed accounting of all proceeds received by Alcoholism Cure

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<sup>13</sup> Alternatively, the Court could require Krotzer to pay the \$8,099.00 in proceeds received post-judgment as a compensatory contempt sanction in light of Plaintiffs’ argument that because consumers paid these proceeds when they had not received Attachment A, these consumers may have “reasonably but mistakenly concluded that [Krotzer] could legally seek to collect payments from them.” Plaintiffs’ Brief at 10-11. However, the Court need not rely on this basis in ordering this monetary sanction. Rather, the Court is requiring Krotzer to pay this amount as it reflects a portion of the Judgment which the Court concludes Krotzer has and has had the ability to pay. Additionally, although the Court is limiting the amount of Krotzer’s monetary contempt sanction to the proceeds he received post-judgment, Krotzer is still under a continuing obligation to pay the full \$732,480.00 monetary judgment ordered in the Final Judgment.

Corporation or ACF after the entry of Judgment; (3) any assets that he transferred to his wife, the Krotzer family trust, or any other entity after the year 2005; (4) all of his current income, assets, and liabilities, including all bank and other accounts which he has thus far failed to disclose; (5) his personal and household expenses to the extent he asserts that he cannot pay the judgment because of these expenses; and (6) information reflecting the structure of and rights in the Krotzer family trust, including which persons are presently the trustee and beneficiary or beneficiaries and what property is subject to the trust.<sup>14</sup>

With respect to Krotzer's compliance with

consumer information. If Plaintiffs are able to recover ACF consumer information from Krotzer's electronic hardware, the Court will permit Plaintiffs to send Attachment A to consumers by first-class mail if possible, or otherwise by e-mail.

With respect to Part X of the Final Judgment, the Court will allow Krotzer to avoid incarceration if, within sixty (60) days of the Court's entry of this Order, he prepares and produces a compliance report which satisfies Part X of the Final Judgment and also includes: (1) descriptions of his compliance with each part of the Final Judgment; (2) his use of any terms covered by Part II of the Final Judgment; (3) his use of any fictitious names and aliases, and his activities in connection with all businesses or entities that he is affiliated with or has created since entry of the Final Judgment; and (4) to the extent he must report a lack of compliance, comprehensive documentation of his inability to comply, including proof of all reasonable, good faith attempts made at compliance.

Plaintiffs also request that the Court enjoin Krotzer from accepting funds from ACF consumers. Plaintiffs' Brief at 16. Additionally, Plaintiffs ask that within forty-five (45) days of entry of the contempt order and once Krotzer has complied with the requirements set forth in the contempt order, the Court order Krotzer to file a "truthful and complete affidavit with the Court confirming his compliance with the Court's order." Id. The Court finds each of these sanctions fair and reasonable in light of the current record. Accordingly, the Court will enjoin Krotzer from accepting payments in any form from ACF consumers. Additionally, the Court will order that seventy-five (75) days after the Court's entry of this Order, Krotzer shall file with the Court a declaration or affidavit which is true and accurate and sworn under

penalty of perjury, confirming and setting forth in detail the manner and form in which he has complied with this Order.

Accordingly, it is hereby

**ORDERED:**

1. Contempt Defendant Robert Douglas Krotzer is found to be in civil contempt for violating the Court's Final Judgment and Order for Permanent Injunctive and Other Equitable Relief Against Defendants Alcoholism Cure Corporation and Robert Douglas Krotzer (Doc. 173).
2. Within sixty (60) days of the date of this Order, Krotzer shall:
  - A. Remit to Plaintiffs the \$8,099.00 in proceeds received by Alcoholism Cure Corporation or ACF post-judgment, in accordance with the terms set forth in Part V of the Final Judgment;
  - B. Produce comprehensive documentation,rog24x

- iv. all of his current income, assets, and liabilities, including all bank and other accounts which he has thus far failed to disclose;
  - v. his personal and household expenses to the extent he asserts that he cannot pay the judgment because of these expenses; and
  - vi. information reflecting the structure of and rights in the Krotzer family trust, including which persons are presently the trustee and beneficiary or beneficiaries and what property is subject to the trust;
- C. Prepare and produce the customer list as required by Part VII.A. of the Final Judgment and distribute Attachment A as required by Part VII.B. of the Final Judgment. Provided, however, if Krotzer claims an inability to comply with Part VII of the Final Judgment, he shall
- i. produce comprehensive documentation, in the form of a declaration or affidavit which is true and accurate and sworn under penalty of perjury, of his inability to comply, including but not limited to proof of reasonable, good faith attempts made at compliance and documentation of his claim that he lost

or used to store ACF records to allow Plaintiffs to conduct a forensic analysis and extract all consumer information;

- D. Prepare and produce a compliance report which satisfies Part X of the Final Judgment and also includes:
- i. descriptions of his compliance with each part of the Final Judgment;
  - ii. his use of any terms covered by Part II of the Final Judgment;
  - iii. his use of any fictitious names and aliases, and his activities in connection with all businesses or entities that he is affiliated with or has created since entry of the Final Judgment; and
  - iv. to the extent he must report his lack of compliance, comprehensive documentation of his inability to comply, including proof of all reasonable, good faith attempts made at compliance; and
3. Provided, if Krotzer fails to comply with Paragraph 2 of this Order within sixty (60) days of the date of this Order, he shall be remanded to the custody of the U.S. Marshals and incarcerated until such time as he purges his contempt with compliance as set forth above.
4. To the extent Plaintiffs are able to recover consumer information from Krotzer's electronic hardware, Plaintiffs are permitted to send the notice attached as Attachment A to the Final Judgment to the consumers by first-class mail if possible, or otherwise by e-mail.

5. Krotzer is hereby enjoined from accepting payments in any form from ACF consumers.
6. For purposes of this Order, Krotzer shall, unless otherwise directed by Plaintiffs' authorized representatives, send by overnight courier all reports and notifications required by this Order to Plaintiffs at the following addresses:

Laura Boeckman, Esq.  
Florida Office of the Attorney General  
1300 Riverplace Blvd., Suite 405  
Jacksonville, Florida 32207  
Re: FTC, et. al. v. Alcoholism Cure Corporation, et al.  
Civil Action No. 3:10-cv-266-J-34JRK



Robert M. Frisby, Esq.  
Federal Trade Commission  
600 Pennsylvania Ave., N.W.  
Room CC-9528  
Washington, D.C. 20580  
Re: FTC, et. al. v. Alcoholism Cure Corporation, et al.  
Civil Action No. 3:10-cv-266-J-34JRK

In lieu of overnight courier, Krotzer may send such reports or notifications by first-class mail, but only if Krotzer contemporaneously sends an electronic version of such report or notification to Plaintiffs at:  
Laura.Boeckman@myfloridalegal.com and rfrisby@ftc.gov.



7. Krotzer shall, within five (5) business days of receipt of this Order, file with the Court a sworn statement acknowledging his receipt of this Order.

**DONE AND ORDERED** in Jacksonville, Florida, this 6th day of October, 2015.

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Copies to:

Counsel of Record

Pro se parties