

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

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

Plaintiffs,

v.

Case No.:8:15-cv-1417-T-23EAJ

E.M. SYSTEMS & SERVICES, LLC , a Florida
limited liability company;ADMINISTRATIVE
MANAGEMENT & DESIGN, LLC , a Florida
limited liability company;KLS INDUSTRIES, LLC ,
d/b/a SATISFIED SERVICE SOLUTIONS, LLC ,
a Florida limited liability company;EMPIRICAL
DATA GROUP TECHNOLOGIES, LLC , a Florida
limited liability company;EPIPHANY MANAGEMENT
SYSTEMS, LLC, a Florida limited liability company;
STEVEN D. SHORT, an individual;KARISSA L.
DYAR, an individual;ONE EASY SOLUTION LLC , a
Florida limited liability companyCHRISTOPHER
C. MILES , an individual; JASON E. GAGNON,
an individual;KENNETH A. SALLIES , an individual;
MATTHEW B. THOMAS , an individual;
CARDREADY , LLC , a California limited liability
company;BRANDON A. BECKER , an individual;
JAMES F. BERLAND , an individual; and ANDREW
S. PADNICK , an individual.

Defendants.

FIRST AMENDED COMPLAINT FOR PERMANENT INJUNCTION
AND OTHER EQUITABLE RELIEF

Plaintiffs,) (' (5 \$ / 7 5 \$ ' (& 2 0 0 , 6 6 , 2 1 3) 7 & OFFICE OF THE
ATTORNEY GENERAL, STATE OF FLORIDA

1.

CardReady, LLC; Brandon A. Becker; James F. Berland; Andrew S. Padnick along with
Defendants Steven D. Shork; Karissa Dyar; E.M. Systems & Services, LLC; Administrative
Management & Design, LLC; KLS Industries, LLC; Empirical Data Group Technologies, LLC;
Epiphany Management Systems, LLC; Undeek consumer

15. The FTC also enforces the Telemarketing Act, 15 U.S.C. § 6102. Pursuant to the Telemarketing Act, the FTC promulgated and enforces the TSR, 16 C.F.R. Part 310, which prohibits deceptive and abusive telemarketing acts or practices.

16. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and the TSR and to secure such equitable relief as

enforcement action serves the public interest.

19. As an enforcing authority under FDUTPA, the Florida Attorney General is authorized to pursue this action to enjoin FDUTPA violations and to obtain equitable or other appropriate relief, including restitution, the refund of monies paid, disgorgement of the monies, civil penalties, and other equitable relief as may be app

23. Defendant \$ G P L Q L V W U D W L Y H 0 D Q D J H P H Q W is a V L J Q / Florida limited liability company with its principal place of business at a UPS store located at 6822 22nd Avenue North, St. Petersburg, Florida 33710. AM&D transacts or has transacted business in this district and throughout the United States.

24. Defendant KLS Industries, LLC, d/b/a Satisfied Services Solutions LLC, is a Florida limited liability company with its principal place of business in Pinellas County, Florida, at a PakMail store located at 873 West Bay Drive, Suite 142, Largo, Florida 33770. KLS also has an office at 9365 U.S. Highway 19 North, Suite A, Pinellas Park, Florida 33782. KLS transacts or has transacted business in this district and throughout the United States.

25. Defendant Empirical Data Group Technologies // & EDG Tech is a Florida limited liability company with its principal place of business at 114th Avenue, Suite 601, Largo, Florida 33773. EDG Tech transacts or has transacted business in this district and throughout the United States.

26. Defendant Epiphany Management Systems // & (S L S K D i a Florida limited liability company with its principal place of business at H I H Q G D Q W 6 K R U W ¶ V D Q G ' \ D U ¶ V K R P in Seaside, Florida. Epiphany transacts or has transacted business in this district and throughout the United States.

27. Defendant Steven D. Short 3 6 K R U W is owner and sole member manager of Defendants E.M. Systems, AM&D, EDG Tech, and Epiphany. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had authority to control, or participated in the acts and practices of E.M. Systems, AM&D, EDG Tech, and Epiphany, including the acts and practices set forth in this Complaint. Short resides in Pinellas County, Florida, and has transacted business in this district and throughout the United States.

States.

28. Defendant Karissa Dyar Dyar is the owner and sole member manager of Defendant KLS. At all times material to this Complaint, acting alone or in concert with others, she has formulated, directed, controlled, had authority to control, or participated in the acts and practices of KLS, including the acts and practices set forth in this Complaint. Dyar resides in Pinellas County, Florida, and has transacted business in this district and throughout the United States.

THE ONE EASY DEFENDANTS

29. Defendant 2 Q H (D V \ 6 R O X W L R Q / is a Florida Limited Liability company with its principal place of business 2750 Taylor Ave, Suite B6, Orlando FL 32806. One Easy transactor has transacted business in this district and throughout the United States.

30. Defendant Christopher C. Miles 3 0 L O H s V a co-owner and manager of Defendant One Easy At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had authority to control, or participated in the acts and practices of One Easy including the acts and practices set forth in this Complaint. Miles resides in Orange County, Florida, and has transacted business in this district and throughout the United States.

31. Defendant Jason E. * D J Q R Q 3 * D J S Q R Q owner and manager of Defendant One Easy At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had authority to control, or participated in the acts and pra

32. Defendant Kenneth A. Sallies is a co-owner and manager of Defendant One Easy. At all times material to this Complaint, acting alone or with others, he has formulated, directed, controlled, had authority to control, or participated in the acts and practices of One Easy, including the acts and practices set forth in this Complaint. Sallies resides in Florida and has transacted business in this district and throughout the United States.

33. Defendant Matthew B. KRPDV is a co-owner and manager of Defendant One Easy. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had authority to control, or participated in the acts and practices of One Easy, including the acts and practices set forth in this Complaint. Thomas resides in Orange County, Florida, and has transacted business in this district and throughout the United States.

THE CARDREADY DEFENDANTS

34. CARDREADY is a California limited liability company with its principal place of business at 1801 Century Park East, Suite 2400, Los Angeles, CA 90067. CardReady transacts or has transacted business in this district and throughout the United States from at least November 2012 until October 2014, acting alone or in concert with others, CardReady provided credit card processing services to E.M. Systems.

35. Defendant Brandon A. FWHU is the Chief Executive Officer of CardReady. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had authority to control, or participated in the acts and practices of CardReady, including the acts and practices set forth in this Complaint. Becker has transacted business in this district and throughout the United States.

36.

COMMERCE

40. At all times material to this Complaint, Defendants have maintained a substantial course of trade in the offering for sale and sale of goods or services via telephone affecting

FRPPHUFH DV 3FRPPHUFH' LV GHILQHG LQ 6HEWLRQ 3WRULD 6RU FRPPHUFH' LV GHILQHG LQ 6HEWLRQ)ORULD 6

THE DEBT RELIEF SCAM

41. Since at least January 2013, the E.M. Systems Defendants and the One Easy Debt Relief Defendants engaged in a scheme to defraud consumers through their Debt Relief Scam, which they carried out under numerous fictitious business names associated websites, including:

| <u>Fictitious Business Name</u> | <u>Internet Domain Name</u> |
|---------------------------------|-----------------------------|
| a. Address My Savings | (addressmysavings.com); |
| b. Applied Budgeting | (appliedbudgeting.com); |
| c. Bigger Budget | (biggerbudget.com); |
| d. Budgeting Insights | (budgetinginsights.com); |
| e. Competitive Budgeting | (competitivebudgeting.com); |
| f. Complete Budgeting | (completebudgeting.com); |
| g. Conserved Budgeting | (conservedbudgeting.com); |
| h. Consigned Savings | (consignedsavings.com); |
| i. Containing Expenses | (containingexpenses.com); |
| j. Datalink Financial | (datalinkfinancial.com); |
| k. Decisive Budgeting | (decisivebudgeting.com); |
| l. Efficient Budgeting | (efficientbudgeting.com); |

Defendants sent the consumers a package of documents with information about the purported services and forms for the consumers to fill out and return. Often among these documents as a³) UHTXHQWO \ \$VNHG that reiterated the promise to only and aggressively negotiate with your creditor(s) to provide you with substantial savings.

53. For consumers who completed and returned the forms, the E.M. Systems Defendants then

signature, initials, or date of signature, on merchant account applications submitted to First Pay.

73. Based on the falsified merchant account applications submitted by CardReady First Pay approved at least 26 credit card merchant accounts for each of the Solicited Merchants.

74. The E.M. Systems Defendants used the 26 merchant accounts to process its telemarketing transactions with consumers from at least January 2013 to October 2014. The merchant accounts processed sales drafts that were the result of telemarketing transactions between consumers and the Debt Relief Scam and not between consumers and the Solicited Merchants

75. W

78. At various times, Becker, Berland and Padnick communicated about using the Solicited Merchants and the shell LLCs to process transactions between consumers and E.M. Systems.

79. Berland and Short regularly exchanged emails and spreadsheets showing that transactions between consumers and E.M. Systems were processed through the shell LLC merchant credit card accounts. In certain instances, Berland forwarded the spreadsheets to Becker with comments about chargebacks generated by the shell LLC accounts.

80. In exchange for recruiting the Solicited Merchants, creating the shell LLCs, and obtaining merchant accounts to process the Debt Relief Scam revenues, CardReady retained a substantial portion of the revenue generated by the Debt Relief Scam.

C. CardReady Provided Substantial Assistance to E.M. Systems and Short by Processing Their Credit Card Transactions, Despite Evidence of Deceptive Telemarketing Representations and High Chargebacks

88. Becker, Berland, Padnick and Short routinely communicated about excessive chargebacks on the shell LLC merchant accounts and the resultant account terminations. For example, in April 2014, Berland emailed to Short in reference to chargeback activity on the shell LLC merchant account R X Q W V ³,

LLC; Steven D. Short; Karissa Dya One Easy Solution, LLC; Christopher C. Miles, and Jason E. Gagnon; Kenneth A. Sallies; Matthew B. Thorn (the Debt Relief Defendants) represent, directly or indirectly, expressly or by implication, that:

- a. The Debt Relief Defendants are affiliated, or have established business

violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

VIOLATIONS OF THE TSR

95. Congress directed the FTC to prescribe rules prohibiting abusive and deceptive telemarketing acts or practices pursuant to the Telemarketing Act, 15 U.S.C. §§ 6106-6108. The FTC adopted the original Telemarketing Sales Rule in 1995, extensively amended it in 2003, and amended certain provisions thereafter. 16 C.F.R. Part 310.

96. Pursuant to Section 3(c) of the Telemarketing Act, 15 U.S.C. § 102(c) and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 45(d)(3), a violation of the TSR constitutes an unfair or deceptive act or practice in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

97. The Debt Relief Defendants, D U H ³ V H O O H U V ´ D Q G H R Q U D W H G H L R D ³ W H O H P D U N H W L Q J ´ D Q G K D Y H L Q L W L D W H R X W R E U R K D Y G H W F D O X H V S calls´ W R F R Q V X P H U V W R L Q G X F H W K H S X U F K D e f i n e d i n t h e R R G V R TSR, 16 C.F.R. § 310.2(v), (aa), (cc), and (dd). The Debt Relief Defendants also are sellers or telema U N H W H U V R I ³ G H E W W U B O L H Q H G H E Y L V F K I W 7 6 5 &) 5 †

98. The Debt Relief ' H I H Q G D Q W V P D U N H W D Q G V H a t e r n D i s ³ G H E W defined in the TSR. &) 5 † P ³ G H E W U H O L H I V H U Y L F H ´ G H service represented, directly or by implication, to renegotiate, settle, or in any way alter the terms of payments or other terms of the debt between a person and/or more unsecured creditors or debt collectors, including, but not limited to, a reduction in the balance, interest rate, or fees R Z H G E \ D S H U V R Q W R D Q X Q V H F X U H G F U H G L W R U R U G H E W

99. The TSR prohibits sellers and telemarketers from misrepresenting, directly or by implication, in the sale of goods or services, any material aspect of any debt relief service. C.F.R. § 310.3(a)(2)(x).

100. The TSR prohibits sellers and telemarketers from misrepresenting, directly or by implication, in the sale of goods or services, any material aspect of the nature or terms of the

the Defendants E.M. Systems & Services, LLC; Administrative Management & Design, LLC; KLS Industries, LLC, d/b/a Satisfied Services Solutions, LLC; Empirical Data Group Technologies, LLC; Epiphany Management Systems, LLC; Steven D. Short; Karissa O'Neal; Easy Solution, LLC; Christopher C. Miles, and Jason E. Gagnon; Kenneth A. Sallies; Matthew B. Thomas (the Debt Relief Defendants) misrepresent, directly or indirectly, expressly or by implication, that:

- a. The Debt Relief Defendants are affiliated, or have established business relationships with, the Debt Relief Defendants, and consumers who purchase the Debt Relief Defendants' debt relief services will have their credit card interest rates reduced;
- b. Consumers who purchase the Debt Relief Defendants' debt relief services will save thousands of dollars in a short time period;

106. The Debt Relief Defendants' acts and practices, as set forth in Paragraph 105 of this Complaint, are deceptive telemarketing practices that violate the TSR, 16 C.F.R. § 310.3(a)(2)(x).

COUNT III

DECEPTIVE REPRESENTATIONS ABOUT REFUNDS
IN VIOLATION OF THE TSR

(By Plaintiffs FTC and Florida Attorney General
against the Debt Relief Defendants)

107. In numerous instances in connection with the telemarketing of debt relief services, the Defendants E.M. Systems & Services, LLC; Administrative Management & Design, LLC; KLS Industries, LLC, d/b/a Satisfied Services Solutions, LLC; Empirical Data Group Technologies, LLC; Epiphany Management Systems, LLC; Steven D. Short; Karissa O'Neal; Easy Solution, LLC; Christopher C. Miles, and Jason E. Gagnon; Kenneth A. Sallies; Matthew

COUNT V

CREDIT CARD LAUNDERING IN VIOLATION OF THE TSR

(By Plaintiffs FTC and Florida Attorney General against the CardReady Defendants and the E.M. Systems Defendants)

111. In numerous instances and without the express permission of the applicable credit card system CardReady LLC, Brandon A. Becker, James F. Berland, and Andrew S. Radni W K H 3 8 D Q G 5 H I H Q G E M Systems & Services, LLC; Administrative Management & Design, LLC; KLS Industries, LLC Empirical Data Group Technologies, LLC; Epiphany Management Systems, LLC Steven D. Short, D Q G . D U L V V D ' \ D U W K H 3 (0 ' H I H Q G have employed, solicited, or otherwise caused Solicited Merchants or representatives or agents of Solicited Merchants to present to or deposit into, the credit card system for payment, a credit card sales draft generated by a telemarketing transaction that is not the result of a telemarketing credit card transaction between the cardholder and Solicited Merchants as described in Paragraphs 65-80 above, that violate Section 310.3(c)(2) of the TSR.

112. The CardReady Defendants D Q G W K H (0 6 \ V W acts or practices, G D Q W V as described in Paragraph 111 above, are deceptive telemarketing acts or practices, that violate the TSR, 16 C.F.R. § 310.3(2).

COUNT VI

ASSISTING AND FACILITATING DECEPTIVE AND ABUSIVE TELEMARKETING ACTS IN VIOLATION OF THE TSR

(By Plaintiffs FTC and Florida Attorney General against the CardReady Defendants)

113. In numerous instances CardReady LLC, Brandon A. Becker, James Berland, D Q G \$ Q G U H Z 6 3 D G Q L F N W K provided substantial assistance or support W V '

to Defendants E.M. Systems & Services, LLC and Steven D. Short whom the CardReady Defendants knew, or consciously avoided knowing, were engaged in violations of the TSR set forth in Counts Two and Five of this First Amended Complaint

114. The CardReady Defendants acts or practices, as described in Paragraph 113 above, are deceptive telemarketing acts or practices that violate the TSR, 16 C.F.R. § 310.3(b).

VIOLATIONS OF FDUTPA

115. 6 H F W L R Q) O R U L G D 6 W D W X W H V S U R K L E L

E. Gagnon; Kenneth A. Sallies; Matthew B. Thorn (the Debt Relief Defendants) represent, directly or indirectly, expressly or by implication, that:

- a. The Debt Relief Defendants are affiliated, or have established business UHODWLRQVKLSV ZLWK FRQVXPHUV ¶ OHQGHUV
- b. Consumers who purchase the Debt Relief Defendant's debt relief services will have their credit card interest rates reduced;
- c. Consumers who purchase the Debt Relief Defendants' debt relief services will save thousands of dollars in a short time period; and
- d. The Debt Relief Defendants will provide full refunds if consumers do not save thousands of dollars in a short time period.

119. In truth and in fact, in numerous instances in which the Debt Relief Defendants make the representations set forth in Paragraph 118 of this Complaint:

- a. The Debt Relief Defendants are not affiliated, and do not have established EXVLQHVV UHODWLRQVKLSV ZLWK FRQVXPHUV ¶ OH
- b. Consumers who purchase the Debt Relief ' H I H Q G D E W L F ' services do not have their credit card interest rates reduced;
- c. Consumers who purchase the Debt Relief ' H I H Q G D E W L F ' services do not save thousands of dollars in a short time period; and
- d. The Debt Reliet t

result, consumers within the state of Florida and elsewhere were actually misled by the representations set forth in Paragraph 18.

COUNT VIII

ILLEGAL FACTORING OF CREDIT CARD TRANSACTIONS IN VIOLATION OF FLORIDA STATUTES, SECTIONS 817.62(3)(b)& (c) AND FDUTPA

(By Plaintiff Florida Attorney General against the CardReady Defendants and the E.M. Systems Defendants)

121. In numerous instances and without the express permission of the applicable credit card system CardReady, LLC, Brandon A. Becker, James F. Berland, and Andrew S. Padnick & DUG 5 HDG \ ' H I H E M Systems & Services, LLC; Administrative Management & Design, LLC; KLS Industries, LLC Empirical Data Group Technologies, LLC; Epiphany Management Systems, LLC 6 W H Y H Q ' 6 K R U W D Q G . D U L V V D ' \ D U Defendants, without the authorization of a merchant account acquirer, the Solicited Merchants to remit to the acquirer a credit card transaction record of a sale that was not made by the Solicited Merchants or their agents or employees.

122. Florida Statute Sections 817.62(3)(b) & (c) provide:

- (b) A person who, without the express authorization of the acquirer, employs, solicits, or otherwise causes a person who is authorized by an acquirer to furnish money, goods, services, or anything else of value upon presentation of a credit card or a credit card account number by a cardholder, or employs, solicits, or otherwise causes an agent or employee of such authorized person, to remit to the acquirer a credit card transaction record of a sale that was not made by such authorized person or his or her agent or employee violates this paragraph and is subject to the penalties set forth in s. 817.67(2).
- (c) Any violation of this subsection constitutes an unfair or deceptive act or practice within the meaning of s. 501.204 and is the basis for a civil or administrative action by an enforcing authority pursuant to part II of chapter 501.

123. The CardReady Defendants and the E.M. Systems Defendants in the course of

Date: Dec 15, 2015

RECEIVED

RECEIVED

RECEIVED

Atlanta, GA 30303

Jennifer J. Moore, Ph.D. #0162791

Phone: 404.524.1111

Jennifer.j.moore@duke.edu

Page 34 of 34

Page 34 of 34