

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 Plaintiff, the Federal Trade Commission (“FTC”), for its Complaint alleges:

2 1. The FTC brings this action under Section 13(b) of the Federal Trade
3 Commission Act (“FTC Act”), 15 U.S.C. § 53(b), and the Telemarketing and
4 Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C.
5 §§ 6101 - 6108, to obtain permanent injunctive relief, rescission or reformation of
6 contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies,
7 and other equitable relief for Defendants’ acts or practices in violation of Section
8 5(a) of the FTC Act, 15 U.S.C. § 45(a), and in violation of the FTC’s
9 Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310.

10 **JURISDICTION AND VENUE**

11 2. This Court has subject matter jurisdiction over this action pursuant to
12 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a), 53(b), 6102(c), and
13 6105(b).

14 3. Venue is proper in this district under 28 U.S.C. §§ 1391(b), (c), and
15 (d), and 15 U.S.C. § 53(b).

16 **INTRADISTRICT ASSIGNMENT**

17 4. Assignment to the San Francisco Division is proper pursuant to Local
18 Rule 3-2(d) because Defendants have provided their services in the County of
19 Alameda.

20 **PLAINTIFF**

21 5. The FTC is an independent agency of the United States Government
22 created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC
23 Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or
24 affecting commerce. The FTC also enforces the Telemarketing Act, 15 U.S.C.
25 §§ 6101-6108. Pursuant to the Telemarketing Act, the FTC promulgated and
26 enforces the TSR, 16 C.F.R. Part 310, which prohibits deceptive and abusive
27 telemarketing acts or practices in or affecting commerce.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



1 the matters alleged herein, transacts or has transacted business in this district and
2 throughout the United States.

3 10. Defendants Avangatee and Genius Technologies (collectively,
4 “Corporate Defendants”) have operated as a common enterprise while engaging in
5 the unlawful acts and practices alleged below. Defendants have conducted the
6 business practices below through interrelated companies that have common
7 ownership, members, and business functions. Because the Corporate Defendants
8 have operated as a common enterprise, each of them is jointly and severally liable
9 for the acts and practices alleged below. Defendant Brar has formulated, directed,
10 controlled, had the authority to control, or participated in the acts and practices of
11 the Corporate Defendants that constitute the common enterprise. Collectively,
12 Brar and the Corporate Defendants are referred to hereafter as “Defendants.”

13 **COMMERCE**

14 11. At all times material to this Complaint, Defendants have maintained a
15 substantial course of trade in or affecting commerce, as “commerce” is defined in
16 Section 4 of the FTC Act, 15 U.S.C. § 44.

17 **DEFENDANTS’ UNLAWFUL CONDUCT**

18 12.
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 23. Defendants established and paid for the rental mailbox accounts
2 where the tech support telemarketers direct consumers to send their checks.
3 Defendants collected checks from those mailboxes several times a week.

4 24. Defendants opened and maintained the bank accounts where
5 Defendants deposited consumers' checks. On at least two occasions, consumers
6 wired large payments (\$79,998 and \$59,998) directly to these accounts. Since
7 2015, Defendants opened at least six different bank accounts for the purpose of
8 receiving and processing consumers' payments.

9 25. Several times a week, after depositing the checks into their domestic
10 accounts, Defendants wired substantial sums of money to the tech support
11 telemarketers' various overseas accounts. Since 2015, Defendants have wired
12 millions of dollars to those overseas accounts.

13 *Defendants' Knowledge of the Scheme*

14 26. Since the beginning of their involvement in the tech support scheme,
15 Defendants have known, or have consciously avoided knowing, of the operation's
16 fraudulent practices.

17 27. In November 2015, Defendants received a letter from Avangate, Inc.
18 ("Avangate"), an e-commerce company that specializes in software, demanding
19 that Defendants cease and desist using the name "Avangatee" because Defendants
20 were offering sham technical support services with the intent to extort money from
21 consumers and Defendants' use of the name "Avangatee" suggested a false
22 association with and sponsorship by Avangate.

23 28. Shortly thereafter, Defendant Brar replied to Avangate,
24 acknowledging receipt of Avangate's letter and, among other things, promising to
25 stop using the "Avangatee" name within four weeks. Contrary to Brar's promise,
26 Avangatee remained in operation for at least another year.

27 29. In November 2015, the Better Business Bureau (BBB) serving the San
28 Francisco Bay Area and Northern Coastal California sent Defendants a letter

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

VIOLATIONS OF THE FTC ACT

34. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts or practices in or affecting commerce.”

35. Acts or practices are unfair under Section 5 of the FTC Act if they cause or are likely to cause substantial injury to consumers that consumers cannot reasonably avoid themselves and that is not outweighed by countervailing benefits to consumers or competition. 15 U.S.C. § 45(n).

COUNT I

Unfair Acts or Practices

36. In numerous instances, as described in paragraphs 12 through 33 above, Defendants caused or were likely to cause substantial injury to consumers

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9

1 refund of monies paid, the disgorgement of ill-gotten monies, and pre-judgment
2 interest; and

3 C. Award Plaintiff the costs of bringing this action, as well as such other
4 and additional relief as the Court may determine to be just and proper.

5
6 Respectfully Submitted,

7 DAVID C. SHONKA
8 Acting General Counsel

9
10 Dated: February 21, 2018

/s/ Sophia Calderón
11 SOPHIA CALDERÓN

12 Attorney for Plaintiff
13 FEDERAL TRADE COMMISSION
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28