

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

FEDERAL TRADE COMMISSION,)	
)	
v.)	Case No. 15-cv-1945
)	
ALLSTAR MARKETING GROUP, LLC,)	Judge Matthew F. Kennelly
)	
Defendant.)	
)	

**STIPULATED ORDER FOR PERMANENT INJUNCTION
AND MONETARY JUDGMENT**

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), filed its Complaint for Permanent Injunction and Other Equitable Relief (“Complaint”) in this matter, pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108. Separately, the Office of the Attorney General of the State of New York (“NY AG”) commenced an investigation into Defendant’s business practices, and Defendant has agreed to an Assurance of Discontinuance to resolve the NY AG’s investigation. Now, the Commission and Defendant stipulate to entry of this Stipulated Final Judgment and Order for Permanent Injunction and Monetary Judgment (“Order”) to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. The Court has jurisdiction over this matter.
2. The Complaint charges that Defendant has participated in deceptive and unfair acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and various provisions

of the Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310, in connection with the advertising, marketing, promotion, offering for sale or sale of Defendant’s products.

3. Defendant neither admits nor denies any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendant admits the facts necessary to establish jurisdiction.

4. Defendant 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’s fees.

5. Defendant waives all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

For purposes of this Order, the following definitions apply:

A. **“Clear and conspicuous” or “clearly and conspicuously”** means:

1. In textual communications, the disclosure must be in noticeable type, size, and location, using language and syntax comprehensible to an ordinary consumer;

2. In communications disseminated orally or through audible means, the disclosure must be delivered in a volume, cadence, language, and syntax sufficient for an ordinary consumer to hear and comprehend them;

3. In communication disseminated from video means: (a) written disclosures must be in a form consistent with definition A.1 and appear on the screen for a duration sufficient for an ordinary consumer to read and comprehend them, and be in the same

language as the predominant language that is used in the communication; and (b) audio disclosures must be consistent with definition A.2; and

4. The disclosure cannot be combined with other text or information that is unrelated or immaterial to the subject matter of the disclosure. No other representation(s) may be contrary to, inconsistent with, or in mitigation of, the disclosure.

B. “**Corporate Defendant**” or “**Defendant**” means Allstar Marketing Group, LLC, and its successors and assigns.

C. “**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.

D. “**Telemarketer**” means any person who, in connection with Telemarketing, initiates or receives telephone calls to or from a customer or donor, whether or not such person is under the jurisdiction of the Commission.

E. “**Telemarketing**” means a plan, program, or campaign which is conducted to induce the purchase of goods or services or a charitable contribution, by use of one or more telephones and which involves more than one interstate telephone call. The term does not include the solicitation of sales through the mailing of a catalog which: contains a written description or illustration of the goods or services offered for sale; includes the business address of the seller; includes multiple pages of written material or illustrations; and has been issued not less frequently than once a year, when the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during

those calls takes orders only without further solicitation. For purposes of the previous sentence, the term “further solicitation” does not include providing the customer with information about, or attempting to sell, any other item included in the same catalog which prompted the customer’s call or in a substantially similar catalog.

ORDER

I. REQUIRED DISCLOSURES

IT IS ORDERED that Defendant, Defendant’s officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the advertising, marketing, promoting, or offering for sale of any good or service, are permanently restrained and enjoined from failing to clearly and conspicuously disclose, before consumers are asked to reveal billing information or consent to any purchase: the total number of products consumers are ordering; all fees and costs, including, but not limited to, any processing and handling charge; and all material conditions applicable to the purchase or receipt of the product or service that is the subject of the offer.

II. REQUIRED EXPRESS AUTHORIZATION

IT IS FURTHER ORDERED that Defendant, Defendant’s officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the advertising, marketing, promoting, or offering for sale of any good or service, are permanently restrained and enjoined from causing billing information to be submitted for payment, in connection with the marketing of any such product or service, without the express

informed consent of the consumer, which shall include the clear and conspicuous disclosure of: the total number of products consumers are ordering; all fees and costs, including, but not limited to, any processing and handling charge; and all material conditions applicable to the purchase or receipt of the product or service that is the subject of the offer, in close proximity prior to the consumer's express informed consent to purchase such products or services.

III. PROHIBITED TELEMARKETING PRACTICES

IT IS FURTHER ORDERED that Defendant, Defendant's officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with telemarketing, are permanently restrained and enjoined from engaging in, causing others to engage in, or assisting others engaging in, any of the following practices:

- A. Failing to disclose truthfully, in a clear and conspicuous manner, the total costs to purchase, receive, or use, and the quantity of, any goods or services that are the subject of the sales offer;
- B. Failing to disclose truthfully, promptly, and in a clear and conspicuous manner to the person on the call, the identity of the seller, that the purpose of the call is sell goods or services, and the nature of the goods or services; and
- C. Causing billing information to be submitted for payment, directly or indirectly, without the express informed consent of the customer or donor.

IV. MONETARY JUDGMENT

IT IS FURTHER ORDERED that:

A. Judgment in the amount of Seven Million Five Hundred Thousand Dollars (\$7,500,000) is entered in favor of the Commission against Defendant as equitable monetary relief.

B. Defendant is ordered to pay to the Commission Seven Million Five Hundred Thousand Dollars (\$7,500,000), which, as Defendant stipulates, is held in escrow by a third party pursuant to a written escrow agreement, for no purpose other than payment to the Commission. Such payment must be made within seven (7) days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission.

C. Defendant relinquishes dominion and all legal and equitable rights, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

D. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission, including in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.

E. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission pursuant to Section 532(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

F. Defendant acknowledges that its Taxpayer Identification Number, which Defendant must submit to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

G. All money paid to the Commission pursuant to this Order may be deposited into a fund administered by the Commission or its designee, in consultation with the NY AG, to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the Commission decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendant's practices alleged in the Complaint. Any money not used for such equitable relief by the Commission shall be deposited to the United States Treasury as disgorgement. Defendant has no right to challenge any actions the Commission or its representatives may take pursuant to this Subsection.

V. CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Defendant, Defendant's officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them who receive actual notice of this Order, whether acting directly or indirectly, in connection with the advertising, marketing, promoting, or offering for sale of any good or service, must provide sufficient customer information to enable Plaintiff to efficiently administer consumer redress. If a representative of the Commission requests in writing any information related to redress, Defendant must provide it, in the form prescribed by the Commission, within 14 days.

VI. ORDER ACKNOWLEDGEMENTS

IT IS FURTHER ORDERED that Defendant obtains acknowledgments of receipt of this Order:

A. Defendant, within 7 days of entry of this Order, must submit to Plaintiff an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For 5 years after entry of this Order, Defendant must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who participate in conduct related to the subject matter of this Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within 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 Defendant delivered a copy of this Order, Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

VII. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendant makes timely submissions to the Commission:

A. One year after entry of this Order, Defendant must submit a compliance report, sworn under penalty of perjury:

1. Defendant must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission may use to communicate with Defendant; (b) identify all of that Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the goods

and services offered, and the means of advertising, marketing, and sales;
(d) describe in detail whether and how that Defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

B. For ten (10) years after entry of this Order, Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. Each Defendant must report any change in: (a) any designated point of contact; or (b) the structure of Defendant or any entity that Defendant has any ownership interest in 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. Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or any similar proceeding by or against Defendant within 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. Allstar Marketing Group, LLC*, FTC Matter No. 1323207.

VIII. RECORDKEEPING

IT IS FURTHER ORDERED that Defendant must create certain records for ten (10) years after entry of the Order, and retain each such record for 5 years. Specifically, Defendant 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, and telephone numbers; job title or position; dates of service; and, if applicable, the reason for termination;
- C. Records of all consumer complaints and refund requests, 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. A copy of each unique advertisement or other marketing material.

IX. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendant's compliance with this Order, including any failure to transfer any assets as required by this Order:

A. Within 14 days of receipt of a written request from a representative of Plaintiff, Defendant 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. Plaintiff is 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, Plaintiff is authorized to communicate directly with Defendant. Defendant must permit representatives of Plaintiff to interview any employee or other person affiliated with Defendant who has agreed to such an interview. The person interviewed may have counsel present.

C. Plaintiff may use all other lawful means, including posing, through its representatives, as consumers, suppliers, or other individuals or entities, to Defendant or any individual or entity affiliated with Defendant, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

X. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

SO ORDERED this _____ day of _____, 2015.

UNITED STATES DISTRICT JUDGE

SO STIPULATED AND AGREED:

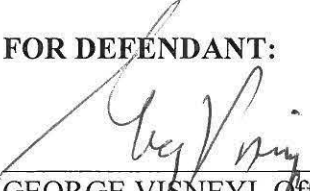
FOR PLAINTIFF:


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Telephone: (312) 960-5634
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Dated: March 4, 2015

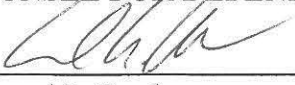
Attorney for Plaintiff
FEDERAL TRADE COMMISSION

FOR DEFENDANT:


GEORGE VISNEYI, Officer and Owner, on behalf
of DEFENDANT ALLSTAR MARKETING
GROUP, LLC

Dated: 1/23/15, 2015

COUNSEL FOR DEFENDANT:


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Dated: 1/26/15, 2015

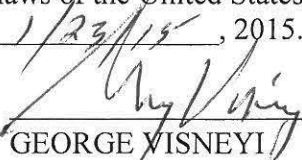
**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

FEDERAL TRADE COMMISSION,)
)
 v.)
)
 ALLSTAR MARKETING GROUP, LLC,)
)
 Defendant.)

**ACKNOWLEDGMENT BY AFFIDAVIT OF RECEIPT OF ORDER BY
DEFENDANT ALLSTAR MARKETING GROUP, LLC**

1. My name is George Visneyi, my job title is Chief Financial Officer of Allstar Marketing Group, LLC, and I am authorized to accept service of process on Allstar Marketing Group, LLC. I am a U.S. citizen over the age of eighteen, and I have personal knowledge of the facts set forth in this Acknowledgment.
2. Allstar Marketing Group, LLC was a Defendant in FTC v. Allstar Marketing Group, LLC, which is the court case listed near the top of this page.
3. On _____, 2015, Allstar Marketing Group, LLC, received a copy of the Stipulated Final Order for Permanent Injunction and Other Equitable Relief, which was signed by the Honorable [*Judge's name*] and entered by the Court on _____, 2015. The copy of the Order attached to this Acknowledgment is a true and correct copy of the Order it received.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on 1/23/15, 2015.



GEORGE VISNEYI
Officer of Allstar Marketing Group, LLC

State of NY, City of Hawthorne

Subscribed and sworn to before me
this 13th day of JANUARY, 2015.

Nathan Froimowitz

Notary Public

My commission expires: 9/21/17

