
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

EFFEN ADS, LLC, *et al.*,

Defendants.

**STIPULATED ORDER FOR
PERMANENT INJUNCTION AND
MONETARY JUDGMENT AS TO
JASON WALKER**

2:19-cv-945-RJS

Chief District Judge Robert J. Shelby

Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), 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), 57b, and Section 7(a) of the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 (“CAN-SPAM Act”), 15 U.S.C. § 7706(a). The Commission and Defendant Jason Walker stipulate to the entry of this Stipulated 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. This Court has jurisdiction over this matter.
2. The Complaint charges that Stipulating Defendant participated in deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, and the CAN-SPAM Act, 15 U.S.C. §§ 7701-7713, in the marketing of an online work-at-home program promoted through false celebrity endorsements and fabricated reviews by news organizations.

3. Stipulating 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, Stipulating Defendant admits the facts necessary to establish jurisdiction.

4. Stipulating Defendant waives any claim that he 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 his own costs and attorney fees.

5. Stipulating Defendant and the Commission 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. “**Affiliate Marketer**” means any person or entity that, in connection with an Affiliate Program, receives compensation from Stipulating Defendant for (i) providing or referring potential or actual customers or (ii) otherwise marketing, advertising, or offering for sale a product, service, or program.

B. “**Affiliate Program**” means any arrangement under which any marketer or seller of a product, service, or program pays, offers to pay, or provides or offers to provide, any form of consideration to Stipulating Defendant to (i) provide the marketer or seller with, or refer to the marketer or seller, potential or actual customers, or (ii) otherwise market, advertise, or offer for sale the product, service, or program on behalf of the marketer or seller.

C. “**Client**” means any person or entity that, in connection with an Affiliate Program, pays, offers to pay, or provides or offers to provide, any form of consideration to Stipulating Defendant to (i) provide or refer potential or actual customers or (ii) otherwise market, advertise,

or offer for sale a product, service, or program.

D. **“Commercial Electronic Mail Message”** (or **“Commercial Email”**) means any Electronic Mail Message the primary purpose of which is the commercial advertisement or promotion of a commercial product or service (including the content on an Internet website operated for commercial purposes).

E. **“Electronic Mail Message”** (or **“Email”**) means a message sent to a unique Electronic Mail Address.

F. **“Electronic Mail Address”** means a destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox (commonly referred to as the “local part”) and a reference to an Internet domain (commonly referred to as the “domain part”), whether or not displayed, to which an Electronic Mail Message can be sent or delivered.

G. **“Initiate,”** when used with respect to a Commercial Electronic Mail Message, means to originate or transmit such message or to Procure the origination or transmission of such message.

H. **“Procure,”** when used with respect to the Initiation of a Commercial Electronic Mail Message, means intentionally to pay or provide other consideration to, or induce, another person to Initiate such a message on one’s behalf.

I. **“Protected Computer”** means a computer which is used in or affecting interstate or foreign commerce or communication, including a computer located outside the United States that is used in a manner that affects interstate or foreign commerce or communication of the United States.

J. **“Stipulating Defendant”** means Jason Walker.

K. **“Work-At-Home Program”** means any product or service, including any program or plan, that is represented, expressly or by implication, to assist a consumer in any manner to earn money while working from home.

ORDER

I.

BAN ON MARKETING WORK-AT-HOME PROGRAMS

IT IS ORDERED that Stipulating Defendant is permanently restrained and enjoined from:

A. Advertising, marketing, promoting, or offering for sale, or assisting in the advertising, marketing, promoting, or offering for sale of any Work-At-Home Program; and

B. Holding an ownership interest, share, or stock in any business, other than a publicly traded company, that engages in or assists in advertising, marketing, promoting, or offering for sale any Work-At-Home Program.

II.

PROHIBITED BUSINESS ACTIVITIES

IT IS FURTHER ORDERED that Stipulating Defendant, Stipulating Defendant’s agents, employees 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, promotion, offering for sale, or sale of any product, service, or program in connection with any Affiliate Program, other than those banned by Section I of this Order, are permanently restrained and enjoined from:

A. Providing or making available to any Affiliate Marketer any advertisement, including any advertisement supplied or produced by any Client, misrepresenting:

1. that any product, service, or program is or has been used, endorsed, or approved by specifically identified celebrities;
2. that any website or other publication is an objective news report;
3. that any advertisement for a product, service, or program is an objective source of information, such as an unaffiliated news report or magazine article;
4. that objective news reporters have performed independent tests of any product, service, or program.

B. Providing or making available to any Affiliate Marketer for use in connection with any Commercial Electronic Mail Message a "from" line (the line identifying or purporting to identify the person Initiating the message), including any "from" line supplied or produced by any Client, that does not accurately identify any person who Initiated the message or that fails to identify accurately a Protected Computer used to Initiate the message by misrepresenting:

1. that any product, service, or program is or has been used, endorsed, or approved by specifically identified celebrities;
2. that any website or other publication is an objective news report;
3. that any advertisement for a product, service, or program is an objective source of information, such as an unaffiliated news report or magazine article;
4. that objective news reporters have performed independent tests of any product, service, or program.

C. Providing or making available to any Affiliate Marketer for use in connection

with any Commercial Electronic Mail Message a subject heading, including any subject heading supplied or produced by any Client, that is likely to mislead a recipient, acting reasonably under the circumstances, about the contents or subject matter of the message by misrepresenting:

1. that any product, service, or program is or has been used, endorsed, or approved by specifically identified celebrities;
2. that any website or other publication is an objective news report;
3. that any advertisement for a product, service, or program is an objective source of information, such as an unaffiliated news report or magazine article;
4. that objective news reporters have performed independent tests of any product, service, or program.

D. Failing to require that each Client provide to Stipulating Defendant the following identifying information:

1. In the case of a natural person, the Client's first and last name, physical address, country, telephone number, email address, and complete bank account information as to where payments are to be made to or received from that person;
2. In the case of a business entity, the Client's name and any and all names under which it does business, state of incorporation, registered agent, and the first and last name, physical address, country, telephone number, and email address for at least one natural person who owns, manages, or controls the Client, and the complete bank account information as to where payments are to be made to or received from the Client.

E. Failing to require that each Client, prior to the public use or dissemination to consumers of any marketing materials, including, but not limited to, websites, Emails, and pop-

ups, in connection with any Affiliate Program, provide Stipulating Defendant with the following information: (a) copies of all such materially different marketing materials, including text, graphics, video, audio, and photographs; and (b) each location the Client maintains, or directly or indirectly controls, to which consumers receiving or shown such marketing materials will be referred, including the URL of any website.

III.

MONETARY JUDGMENT

IT IS FURTHER ORDERED that:

A. Judgment in the amount of ONE MILLION THREE HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$1,325,000) is entered in favor of the Commission against Stipulating Defendant as equitable monetary relief.

B. Stipulating Defendant is ordered to pay to the Commission ONE MILLION THREE HUNDRED TWENTY-FIVE THOUSAND DOLLARS (\$1,325,000), which, as Stipulating Defendant stipulates, his undersigned counsel holds in escrow for no purpose other than payment to the Commission. Such payment must be made within 7 days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission.

IV.

ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

A. Stipulating Defendant 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 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.

C. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission pursuant to Section 523(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.

D. Stipulating Defendant acknowledges that his Taxpayer Identification Number (Social Security Number), which Stipulating Defendant previously submitted 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.

E. All money paid to the Commission pursuant to this Order may be deposited into a fund administered by the Commission or its designee 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 Stipulating Defendant's practices alleged in the Complaint. Any money not used for such equitable relief is to be deposited to the U.S. Treasury as disgorgement. Stipulating Defendant has no right to challenge any actions the Commission or its representatives may take pursuant to this Subsection.

V.

COOPERATION

IT IS FURTHER ORDERED that Stipulating Defendant must fully cooperate with representatives of 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. Stipulating Defendant must provide truthful and complete information, evidence, and testimony. Stipulating Defendant must appear for interviews, discovery, hearings, trials, and any other proceedings that a Commission representative may reasonably request upon 5 days written notice, or other reasonable notice, at such places and times as a Commission representative may designate, without the service of a subpoena.

VI.

ORDER ACKNOWLEDGMENTS

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

- A. Stipulating Defendant, within 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 5 years after entry of this Order, Stipulating Defendant for any business that Stipulating Defendant is the majority owner or controls directly or indirectly must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees having managerial responsibilities for conduct related to the subject matter of the Order and all agents and representatives who participate in conduct related to the subject matter of the 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 Stipulating Defendant delivered a copy of this Order, Stipulating Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

VII.

COMPLIANCE REPORTING

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

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

1. Stipulating 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 Stipulating Defendant; (b) identify all of Stipulating 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 Stipulating 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.

2. Additionally, Stipulating Defendant must: (a) identify all telephone

numbers and all physical, postal, email and Internet addresses, including all residences; (b) identify all business activities, including any business for which Stipulating Defendant performs services whether as an employee or otherwise and any entity in which Stipulating Defendant has any ownership interest; and (c) describe in detail Stipulating Defendant's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.

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

1. Stipulating Defendant must report any change in: (a) any designated point of contact; or (b) the structure of any entity that Stipulating 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.

2. Additionally, Stipulating Defendant must report any change in: (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for which Stipulating Defendant performs services whether as an employee or otherwise and any entity in which Stipulating Defendant has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity.

C. Stipulating Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against Stipulating 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. Effen Ads, LLC, et al.

VIII.

RECORDKEEPING

IT IS FURTHER ORDERED that Stipulating Defendant must create certain records for 10 years after entry of the Order, and retain each such record for 5 years. Specifically, Stipulating Defendant for any business that Stipulating Defendant is a majority owner or controls directly or indirectly 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. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission; and

D. A copy of each unique advertisement or other marketing material referenced in Section II above.

IX.

COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Stipulating 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 the Commission, Stipulating 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. The Commission 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, the Commission is authorized to communicate directly with Stipulating Defendant. Stipulating Defendant must permit representatives of the Commission to interview any employee or other person affiliated with Stipulating Defendant who has agreed to such an interview. The person interviewed may have counsel present.

C. The Commission may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Stipulating Defendant or any individual or entity affiliated with Stipulating 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.

D. Upon written request from a representative of the Commission, any consumer reporting agency must furnish consumer reports concerning Stipulating Defendant, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. §1681b(a)(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 20th day of December 2019.

BY THE COURT:



ROBERT J. SHELBY
United States Chief District Judge