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ORIGINAL

FILED
CLERK, U.S. DISTRICT COURT
APR 19 2007
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY

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11 Attorneys for Plaintiff
12 FEDERAL TRADE COMMISSION

13 UNITED STATES DISTRICT COURT
14 FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

LOGGED

15 FEDERAL TRADE COMMISSION,)
16) No. CV07-01791 TJH (SHx)
17) Plaintiff,)
18) v.)
19) MYSTERY SHOP LINK, LLC,)
20) et al.,)
21) Defendants.)

22 Plaintiff, the Federal Trade Commission ("Commission" or
23 "FTC"), has filed a Complaint for Permanent Injunction and Other
24 Equitable Relief ("Complaint") against Defendants Mystery Shop
25 Link, LLC, Tangent Group, LLC, Robin Larry Murphy, Andrew Holman,
26 Kenneth Johnson, Harp Marketing Services, Inc., Aiden Reddin, and
27 Marc Gurney for deceptive acts and practices in connection with
28 the advertising and telemarketing of "mystery shopping" employment
opportunities. The Complaint alleges that these deceptive acts

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1 and practices violated Section 5(a) of the FTC Act, 15 U.S.C.
2 § 45(a). In conjunction with the filing of its Complaint, the
3 Commission also moved this Court for entry of an order holding
4 certain Defendants in contempt of the Consent Judgment And Order
5 For Permanent Injunction With Respect To Defendant Robin L.
6 Murphy, entered by this Court on April 14, 1997, in connection
7 with the case captioned FTC v. Stratified Advertising and
8 Marketing, Inc., et al., Civ. No. 96-4142 TJH (VAPx).

9 The Commission and Defendant Kenneth Johnson have stipulated
10 to the entry of the following Stipulated Order for Preliminary
11 Injunction ("Order"); and the Court, having considered the record
12 and being fully advised in the premises, hereby finds:

13 **FINDINGS**

14 1. This Court has jurisdiction over the subject matter of
15 this case and the parties hereto. Venue in the Central District
16 of California is proper. Defendant Kenneth Johnson has been
17 properly served with process.

18 2. The alleged activities of Defendant are in or affecting
19 commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

20 3. There is good cause to believe that Defendant has
21 engaged in, and is likely to engage in, acts and practices that
22 violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and that
23 the Commission is likely to prevail on the merits of this action.

24 4. There is good cause to believe that irreparable damage
25 to the Court's ability to grant effective final relief for
26 consumers in the form of monetary restitution will occur from the
27 sale, transfer, assignment, or other disposition or concealment by
28 Defendant of his assets or records unless Defendant is restrained

1 and enjoined by order of this Court.

2 5. Weighing the equities and considering the Commission's
3 likelihood of success in its causes of action, entry of this
4 preliminary injunction is in the public interest.

5 6. The parties have agreed to the entry of this stipulated
6 Order without adjudication of any issue of fact or law and without
7 Defendant admitting liability for any of the matters alleged in
8 the Complaint.

9 7. No security is required of any agency of the United
10 States for the issuance of a preliminary injunction. See Fed. R.
11 Civ. P. 65(c).

12 **ORDER**

13 **DEFINITIONS**

14 For purposes of this Order, the following definitions shall
15 apply:

16 1. "**Plaintiff**," "**Commission**," or "**FTC**" means the Federal
17 Trade Commission.

18 2. "**Defendant**" means Kenneth Johnson.

19 3. "**Defendants**" means Mystery Shop Link, LLC, Tangent
20 Group, LLC, Robin Larry Murphy, Andrew Holman, Kenneth Johnson,
21 Harp Marketing Services, Inc., Aiden Reddin, and Marc Gurney, and
22 each of them, by whatever names each might be known.

23 4. "**Account number**" means any credit or debit card number,
24 bank account number, deposit account number, personal
25 identification number ("PIN"), access code, or security code,
26 needed to charge or debit a consumer's account.

27 5. "**Assets**" means any legal or equitable interest in, right
28 to, or claim to, any real and/or personal property, including but

1 not limited to chattels, goods, instruments, equipment, fixtures,
2 general intangibles, effects, leaseholds, mail or other
3 deliveries, inventory, checks, notes, accounts, credits,
4 receivables (as those terms are defined in the Uniform Commercial
5 Code), and all cash, wherever located.

6 6. **"Assisting others"** means providing any of the following
7 goods or services to any person or entity engaged in
8 telemarketing: (a) providing for or arranging for the provision of
9 mail or telephone lists that contain, incorporate, or utilize
10 consumers' account numbers; (b) preparing or providing, or causing
11 to be prepared or provided, telephone sales scripts or other
12 materials for use in connection with the promotion of products or
13 services to consumers; (c) providing, mailing or shipping, or
14 arranging for the provision, mailing, or shipping, of fulfillment
15 products or services; (d) providing or arranging for the provision
16 of telemarketing services; (e) providing or facilitating the means
17 of obtaining payment from consumers, by providing or facilitating
18 access to the credit card or bank account payment and collection
19 system; (f) performing or providing marketing services of any
20 kind; (g) developing, providing, or arranging for the provision of
21 names of potential customers; (h) providing or arranging for the
22 provision of post office boxes or the services of commercial
23 receiving agencies; (i) preparing, printing, or transmitting
24 invoices; (j) recording or verifying sales solicitations; and (k)
25 performing customer service functions, including, but not limited
26 to, receiving or responding to consumer complaints, obtaining or
27 receiving identifying and financial information from consumers,
28 and communicating with consumers on behalf of the seller or

TELEMARKETING SALES RULE

1 telemarketer.

2 7. "**Consumer**" means any individual, group, unincorporated
3 association, limited or general partnership, corporation, or other
4 business entity.

5 8. "**Customer**" means any person who has paid, or may be
6 required to pay, for goods or services offered for sale or sold by
7 Defendants.

8 9. "**Document**" is synonymous in meaning and equal in scope
9 to the usage of the term in Federal Rule of Civil Procedure 34(a),
10 and includes writings, drawings, graphs, charts, photographs,
11 audio and video recordings, computer records, and other data
12 compilations from which information can be obtained and
13 translated, if necessary, through detection devices into
14 reasonably usable form. A draft or non-identical copy is a
15 separate document within the meaning of the term.

16 10. "**Person**" means a natural person, an organization or
17 other legal entity, including a corporation, partnership, sole
18 proprietorship, limited liability company, association,
19 cooperative, or any other group or combination acting as an
20 entity.

21 11. "**Telemarketing**" means any plan, program or campaign
22 (whether or not covered by the Telemarketing Sales Rule, 16 C.F.R.
23 Part 310) that is conducted to induce the purchase of goods or
24 services, or the payment of money, by means of the use of one or
25 more telephones.

26 12. "**Employment opportunity**" means any program, plan,
27 product or service that is represented to enable a participant or
28 purchaser to earn money through any employment.

1 I. PROHIBITED BUSINESS ACTIVITIES

2 IT IS ORDERED that Defendant Kenneth Johnson, and his
3 successors and assigns, officers, agents, servants, employees, and
4 attorneys, and those persons in active concert or participation
5 with him who receive actual notice of this Order by personal
6 service or otherwise, whether acting directly or through any
7 entity, corporation, subsidiary, division, or other device, in
8 connection with the advertising, promotion, offering, or sale of
9 any employment opportunity, or any other product, program, good or
10 service, are hereby restrained and enjoined from:

11 A. Misrepresenting, expressly or by implication:

12 1. that Defendants are themselves hiring consumers to
13 perform work or are hiring on behalf of others;

14 2. that a specified number of mystery shopping jobs
15 are currently available through Defendants in consumers'
16 local areas;

17 3. that a large percentage of mystery shopping jobs go
18 unfilled due to a lack of mystery shoppers; or

19 4. that consumers who pay a fee to Defendants for
20 access to mystery shopping jobs are likely to earn
21 substantial income;

22 B. Falsely representing that any consumer will receive a
23 list identifying multiple open positions or jobs in the consumer's
24 chosen field and/or geographical location;

25 C. Falsely representing the conditions a consumer must
26 satisfy to obtain a refund;

27 D. Failing to clearly disclose to any consumer all material
28 conditions of obtaining a refund if, and at the time, the

1 possibility of obtaining a refund is mentioned to the consumer;

2 E. Misrepresenting, expressly or by implication, or failing
3 to disclose, any fact material to a consumer's decision to
4 purchase or use any product, program, good, or service;

5 F. Accepting payment or other consideration from any
6 consumer, or on behalf of any consumer, in connection with the
7 advertising, promotion, offering, or sale of any employment
8 opportunity; and

9 G. Assisting others who violate any provision of Paragraphs
10 A through F of this Section.

11 II. MAINTAIN RECORDS

12 **IT IS FURTHER ORDERED** that Defendant Kenneth Johnson, and his
13 officers, agents, directors, servants, employees, salespersons,
14 independent contractors, attorneys, corporations, subsidiaries,
15 affiliates, shareholders, successors, assigns, and all other
16 persons or entities in concert or participation with him who
17 receive actual notice of this Order by personal service or
18 otherwise, whether acting directly or through any trust,
19 corporation, subsidiary, division, or other device, or any of
20 them, are hereby restrained and enjoined from:

21 A. Failing to create and maintain books, records, accounts,
22 bank statements, current accountants' reports, general ledgers,
23 general journals, cash receipt ledgers, source documents,
24 documents indicating title to real or personal property, and any
25 other data which in reasonable detail fairly, accurately, and
26 completely reflect the incomes, disbursements, transactions and
27 uses of Defendants' Assets;

28 B. Destroying, erasing, mutilating, concealing, altering,

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1 transferring, or otherwise disposing of in any manner, directly or
2 indirectly, any scripts, advertisements, verification tapes,
3 books, records, tapes, disks, contracts, accounting data,
4 handwritten notes, checks (fronts and backs), correspondence,
5 forms, manuals, electronically stored data, banking records,
6 consumer or debtor lists or files, mailing lists, telemarketer
7 lists, invoices, telephone records, receipt books, postal
8 receipts, ledgers, payroll records, or other Documents of any
9 kind, including information stored in computer-maintained form
10 (such as electronic mail), in their possession, custody, or
11 control.

12 **III. FINANCIAL STATEMENTS**

13 **IT IS FURTHER ORDERED** that, no later than ten (10) calendar
14 days after entry of this Order, unless he has already done so,
15 Defendant Kenneth Johnson shall provide to counsel for the
16 Commission:

17 A. A completed financial statement accurate as of the date
18 of service of this Order upon such Defendant, in the form
19 previously provided to Defendant, along with the required
20 attachments; and

21 B. A completed statement, verified under oath, of all
22 payments, transfers, or assignments of funds, assets, or property
23 worth \$5,000.00 or more since January 1, 2005. Such statement
24 shall include: (1) the amount paid, transferred or assigned; (2)
25 the name, address, and telephone number of each payee, transferee
26 or assignee; (3) the date of the payment, assignment or transfer;
27 and (4) the type and amount of consideration paid by or to the
28 Defendant. The statement shall specify the name and address of

1 each financial institution or brokerage firm at which the
2 Defendant has accounts or safe deposit boxes. Said statement
3 shall include assets held in foreign as well as domestic accounts.

4 IV. ASSET PRESERVATION

5 **IT IS FURTHER ORDERED** that Defendant Kenneth Johnson, and his
6 officers, directors, agents, servants, employees, salespersons,
7 distributors, corporations, subsidiaries, affiliates, successors,
8 assigns, and those persons or entities in active concert or
9 participation with him who receive actual notice of this Order by
10 personal service, facsimile, or otherwise, are hereby enjoined
11 from directly or indirectly selling, liquidating, assigning,
12 transferring, converting, loaning, encumbering, pledging,
13 concealing, dissipating, spending, withdrawing, or otherwise
14 disposing of any funds, real or personal property, or other assets
15 or any interest therein, wherever located, including any assets
16 outside the territorial United States, which are owned and
17 controlled by him, or held for his benefit, in whole or in part,
18 or in his possession, other than those expenditures or transfers
19 for reasonable, actual, and necessary business operations and
20 business and personal expenses that he will reasonably incur. The
21 funds, property and assets affected by this Paragraph shall
22 include both existing assets and assets acquired after the
23 effective date of this Order, including without limitation, those
24 acquired by loan or gift.

25 Provided, however, that Defendant Kenneth Johnson shall, upon
26 request by the FTC on a monthly basis, produce copies of all
27 documents reflecting such transfers or expenditures for
28 reasonable, actual, and necessary business operations and business

1 and personal expenses, including, but not limited to, books and
2 records of accounts, all financial and accounting records, balance
3 sheets, income statements, and bank records (including monthly
4 statements, canceled checks, records of wire transfers, and check
5 registers).

6 **V. PROHIBITIONS REGARDING CONSUMER INFORMATION**

7 **IT IS FURTHER ORDERED** that Defendant Kenneth Johnson, his
8 successors and assigns, officers, agents, servants, employees, and
9 attorneys, and those persons in active concert or participation
10 with him who receive actual notice of this Order by personal
11 service or otherwise, whether acting directly or through any
12 entity, corporation, subsidiary, division, or other device, are
13 hereby restrained and enjoined from:

14 A. Selling, renting, leasing, transferring, or otherwise
15 disclosing the name, address, telephone number, Social Security
16 number, account number, e-mail address, or other identifying
17 information of any person about whom any Defendant obtained such
18 information in connection with the activities alleged in the
19 Complaint; and

20 B. Benefitting from or using the name, address, telephone
21 number, Social Security number, account number, e-mail address, or
22 other identifying information of any person about whom any
23 Defendant obtained such information in connection with the
24 activities alleged in the Complaint;

25 Provided, however, that Defendant may disclose identifying
26 information to a law enforcement agency or as required by any law,
27 regulation, or court order.

1 **VI. CREATION OF OTHER BUSINESSES**

2 **IT IS FURTHER ORDERED** that Defendant Kenneth Johnson is hereby
3 restrained and enjoined, until further order of this Court, from
4 creating, operating, or controlling any business entity, whether
5 newly-formed or previously inactive, including, without limitation,
6 any partnership, limited partnership, joint venture, sole
7 proprietorship, limited liability company, or corporation, without
8 first providing the Commission with a written statement disclosing:
9 (1) the name of the business entity; (2) the address and telephone
10 number of the business entity; (3) the names of the business entity's
11 owners, officers, directors, principals, managers, members, and
12 employees; and (4) a detailed description of the business entity's
13 intended activities.

14 **VII. DISTRIBUTION OF ORDER BY DEFENDANT**

15 **IT IS FURTHER ORDERED** that Defendant Kenneth Johnson shall
16 immediately provide a copy of this Order to each of his corporations,
17 subsidiaries, affiliates, divisions, directors, officers, partners,
18 shareholders, successors, assigns, employees, attorneys, agents, and
19 independent contractors. Within five calendar days following service
20 of this Order by Plaintiff, Defendant Kenneth Johnson shall serve
21 upon Plaintiff an affidavit identifying the names, titles, addresses,
22 and telephone numbers of the persons and entities he has served with
23 a copy of this Order in compliance with this provision.

24 **VIII. NOTICE OF THIS ORDER**

25 **IT IS FURTHER ORDERED** that copies of this Order may be
26 distributed by first class mail, overnight delivery, facsimile,
27 electronic mail, or personally, by agents or employees of Plaintiff,
28 upon any credit card processing agent or agent providing electronic

1 funds transfer services or automated clearing house processing,
2 customer service agent, commercial mail receiving agency, mail
3 holding or forwarding company, bank, savings and loan institution,
4 credit union, financial institution, accountant, brokerage house,
5 escrow agent, IRA custodian, money market or mutual fund, title
6 company, commodity futures merchant, commodity trading company,
7 common carrier, storage company, trustee, or any other person,
8 partnership, corporation, or legal entity that may be in possession
9 of any Documents, records, Assets, property, or property right of any
10 named Defendant, and any Internet service provider or other person,
11 partnership, corporation, or legal entity that may be subject to any
12 provision of this Order. Service upon any branch or office of any
13 financial institution or entity shall effect service upon the entire
14 financial institution or entity.

15 **IX. CONSUMER REPORTING AGENCIES**

16 **IT IS FURTHER ORDERED** that, pursuant to Section 604 of the Fair
17 Credit Reporting Act, 15 U.S.C. § 1681b, any consumer reporting
18 agency may furnish a consumer or credit report concerning Defendant
19 Kenneth Johnson to Plaintiff.

20 **X. SEVERABILITY**

21 **IT IS FURTHER ORDERED** that the provisions of this Order are
22 separate and severable from one another. If any provision is
23 stayed or determined to be invalid, the remaining provisions shall
24 remain in full force and effect.

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XI. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all purposes.

IT IS SO ORDERED.

Dated:

4/19/07

Terry J. Strachan
United States District Judge

SIGNED AND STIPULATED BY:

Guy G. Ward
Guy G. Ward
David A. O'Toole
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Federal Trade Commission

Dated:

4/17/07

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Santa Monica, CA 90404
(310) 453-8713
Attorneys for Defendant
Kenneth Johnson

Dated: _____

Kenneth Johnson

Dated: _____

XI. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all purposes.

IT IS SO ORDERED.

Dated: _____

United States District Judge

SIGNED AND STIPOLATED BY:

Dated: _____

Guy G. Ward
David A. O'Toole
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55 W. Monroe St., Suite 1825
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Federal Trade Commission

Dated: 4/16/07

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1217 Yale Street, Suite 104
Santa Monica, CA 90404
(310) 453-8713
Attorneys for Defendant
Kenneth Johnson

Dated: 4/16/07

Kenneth Johnson
Kenneth Johnson

CERTIFICATE OF SERVICE

I, Guy G. Ward, hereby certify that I caused to be served true and correct copies of the attached [Proposed] Stipulated Order for Preliminary Injunction as to Kenneth Johnson on the following parties by first class U.S. mail, postage prepaid:

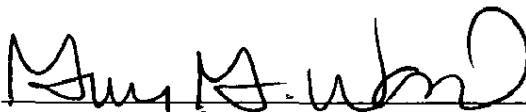
Mystery Shop Link, LLC
c/o James A. Clifford
Registered Agent
2 Market Street, Fourth Floor
Portland, ME 04101

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Aiden Reddin, and
Marc Gurney

Dated: April 17, 2007


Guy G. Ward, counsel for FTC