

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	No. 06 C 5378
v.)	
)	Judge Robert W. Gettleman
1522838 ONTARIO INC., a corporation, d/b/a)	
International Industrial Trade Directory,)	
GERHARD MINTZ, individually and as an owner)	
and director of the corporate defendant, a/k/a)	
Gerry Mintz, WILLIAM GEORGE FISK,)	
individually, a/k/a Michael Kelly, a/k/a Michael)	
Robert Petreikis, EMMA G. WANJIKU,)	
individually,)	
)	
Defendants.)	

ORDER

Plaintiff Federal Trade Commission (“FTC”) has filed this action accusing a number of defendants, including respondent Michael Petreikis, (“Petreikis”), of violating § 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a), in connection with a scheme in which defendants collected substantial sums of money by sending false invoices to unsuspecting “customers.” The other defendants have entered into settlement agreements with the FTC, leaving Petreikis as the sole remaining defendant. Petreikis is currently incarcerated in federal prison in connection with unrelated charges, although, as more thoroughly discussed below, he has also been incarcerated by the Canadian authorities after pleading guilty to criminal conduct related to the instant case.

The FTC has filed a motion for summary judgment, along with a statement of undisputed material facts in compliance with Local Rule 56.1 of this court. These facts clearly establish that Petreikis and the other defendants, operating from the Toronto, Ontario, area, sent fraudulent

invoices to businesses and municipalities throughout the United States seeking payment for print ads or listings in a number of non-existent business and travel directories, as well as for fictitious services and supplies. The scam was, for a time, surprisingly successful because the victims were deceived into paying many of the invoices, believing that the advertising, goods or services were previously authorized by someone in their organizations.

The facts submitted by the FTC also demonstrate that Petreikis was either the leader or one of the leaders of the enterprise. As a result of the criminal investigation in Canada, the evidence disclosed that Petreikis was involved in most of the activities of the scheme, and the search conducted on his residence revealed substantial evidence of his involvement, including invoices, names of potential victims, communications with and payments from those victims, and bank statements.

These facts establish beyond question that Petreikis violated § 5 of the FTC Act by making material misrepresentations likely to mislead reasonable consumers. See FTC v. Bay Area Business Council, Inc., 423 F.3d 627, 635-36 (7th Cir. 2005). In such cases as this, the FTC may seek consumer redress in the form of a monetary judgment against the individual defendant responsible for the violation in addition to injunctive relief. See FTC v. Security Rare Coin, 931 F.2d 1312, 1315 (8th Cir. 1991).

In addition, the FTC's submission establishes that Petreikis pled guilty in Ontario, Canada, to criminal charges in which he admitted participating in the conduct mentioned above and causing \$2 million in damages. Those charges included defrauding U.S. citizens by "deceit, falsehood, or other fraudulent means," and "knowingly or recklessly mak(ing) a representation to

the public that is false or misleading in a material respect,” in violation of Canadian criminal law.

In response to the FTC’s motion for summary judgment, Petreikis has filed a lengthy pro se “reply” that consists substantially of an attack on the FTC and its counsel. Petreikis’ submission is unsworn and unsupported. Although Petreikis is acting pro se from a prison cell,¹ he is still bound by the rules that require that factual assertions be made under oath or by declaration as required by Fed. R. Civ. P. 56.

Although this court reads pro se pleadings liberally and grants pro se litigants greater latitude than represented parties, they are still required to comply with the rules. See United States v. 5443 Suffield Terrace, 2008 WL 4874826, at *1 (N.D. Ill. June 17, 2008). Failure to respond properly to a statement of undisputed material facts filed pursuant to L.R. 56.1 will result in the admission of those facts. See McGee v. Monahan, 2008 WL 3849917 at *2 (N.D. Ill. Aug. 14, 2008). Thus, the FTC’s statement of undisputed material facts is deemed admitted.

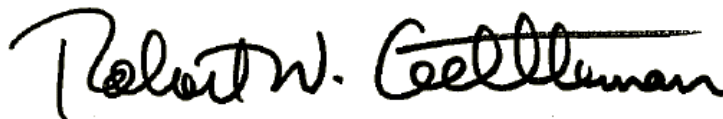
Even if the court were to consider the allegations contained in Petreikis’ “reply,” they are insufficient to defeat summary judgment, primarily because Petreikis has failed to rebut the collateral estoppel effect of his guilty plea in the Ontario court, which has been established by the FTC’s summary judgment papers. Because the findings supporting Petreikis’ guilty plea are identical to the issues litigated in this case, were necessary to the court’s entering a finding of

¹When the FTC initially filed its motion for summary judgment, it failed to include a “notice to pro se litigant opposing motion for summary judgment” as required by Local Rule 56.1. After receiving defendant’s unsworn response, the FTC requested and the court granted a revised briefing schedule to allow Petreikis to amend his response to comply with the requirements of the local rule. Filing of the reply brief was thus delayed and Petreikis was given a chance to file an affidavit or declaration. Instead, he merely refiled his original “reply.”

guilty on the plea, and the proceedings were fundamentally fair, that judgment collaterally estops defendant from denying the charges brought by the FTC in the instant case. See Oneac Corp. v. Raychem Corp., 20 F. Supp.2d 1233, 1242-43 (N.D. Ill. 1998). Although Petreikis claims in his reply that he was incapacitated at the time that plea was entered and has taken an appeal from the plea, he has provided no evidence of such an appeal and, consequently, the judgment finding Petreikis guilty of the very same conduct alleged in the instant case is final. See Ross v. Bd. of Education of Township Highschool Dist. 211, 486 F.3d 279, 284 (7th Cir. 2007) (holding that “the fact that an appeal is lodged does not defeat the finality of the judgment” for preclusion purposes).

For these reasons, the court grants the FTC’s motion for summary judgment, enjoining Petreikis from further violation of the Federal Trade Commission Act and awarding damages in the amount of losses he admitted causing in his guilty plea in the Canadian criminal action, totaling \$2 million. Plaintiff FTC is directed to prepare a proposed judgment order, which should be mailed to Michael Petreikis at his last known address on or before March 11, 2009. FTC is ordered to file a copy with the court on that date, for presentment on March 24, 2009, at 9:00 a.m. Defendant Petreikis’ motion for a jury trial is denied as moot.

ENTER: March 3, 2009



Robert W. Gettleman
United States District Judge