

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

ALLIANCE SECURITY INC., a Massachusetts corporation formerly known as Versatile Marketing Solutions, Inc., VMS Alarms, VMS, Alliance Security, and Alliance Home Protection,

JASJIT GOTRA, a/k/a Jay Gotra, individually and as an officer or owner of Alliance Security, Inc., formerly known as Versatile Marketing Solutions, Inc., VMS Alarms, VMS, Alliance Security, Alliance Home Protection, and AH Protection,

DEFEND AMERICA LLC, a Florida Limited Liability Company,

JESSICA MERRICK, a/k/a Jessica Bright a/k/a Jessica Dudlicek, individually and as an officer of Defend America LLC

POWER MARKETING PROMOTIONS LLC, a North Carolina Limited Liability Company, also d/b/a J Tele Alarms, and

KEVIN KLINK, individually and as an officer or owner of Power Marketing Promotions LLC,

Defendants.

CASE NO. 1:18-CV-10548 (GAO)

**STIPULATED FINAL ORDER FOR PERMANENT INJUNCTION
AND CIVIL PENALTY JUDGMENT
AS TO DEFENDANT ALLIANCE SECURITY INC.**

Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), filed its Complaint for Civil Penalties, Permanent Injunction, and Other Relief (“Complaint”) in this matter pursuant to Sections 5(a), 5(m)(1)(A), 13(b), and 16(a) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a), 45(m)(1)(A), 53(b), and 56(a); Section 6 of the Telemarketing and Consumer Fraud and Abuse Prevention Act (the “Telemarketing Act”), 15 U.S.C. § 6105;

and Section 621(a) of the Fair Credit Reporting Act, 15 U.S.C. § 1681s(a). The Commission and Defendant Alliance Security Inc. stipulate to the entry of this Stipulated Final Order for Permanent Injunction and Civil Penalty Judgment (“Order”) to resolve all matters in dispute in this action between them, but not as to any other person, such as an indemnitee.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendant Alliance Security Inc. participated in deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and has engaged in acts or practices that violate the FTC’s Telemarketing Sales Rule (the “TSR” or “Rule”), as amended, 16 C.F.R. Part 310, in the Telemarketing of their products and services or the Telemarketing of his clients’ products and services by, among other things, initiating and causing the initiation of telemarketing calls to consumers whose telephone numbers were on the National Do Not Call (“DNC”) Registry. The Complaint also charges that Defendant Alliance Security participated in acts and practices in violation of Section 621(a) of the Fair Credit Reporting Act, 15 U.S.C. § 1681(s)(a), by obtaining consumer reports from consumer reporting agencies without a permissible purpose.
3. The Commission’s action against Defendant is not stayed by the Defendant’s bankruptcy filing under 11 U.S.C. § 362(a) because it is an exercise of the Commission’s police or regulatory power as a governmental unit pursuant to 11 U.S.C. § 362(b)(4) and thus falls within an exemption to the automatic stay.

4. Defendant Alliance Security Inc. 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 Alliance Security Inc. admits the facts necessary to establish jurisdiction.

5. Defendant Alliance Security Inc. 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 attorneys' fees. Defendant Alliance Security Inc. waives and releases any claims that it may have against the Commission and its agents that relate to this action.

6. Defendant Alliance Security Inc. 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. **"Consumer Reporting Agency"** means any person which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. Consumer Reporting Agencies include, among others, TransUnion, Equifax, and Experian.

B. **"Consumer Report"** means consumer credit reports, consumer credit scores, or any other written, oral, or other communication of any information by a Consumer Reporting Agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

C. **“Defendant”** means Alliance Security Inc., a Delaware Corporation formerly known as Versatile Marketing Solutions, Inc., VMS Alarms, VMS. Alliance Security, and Alliance Home Protection, and its successors and assigns, individually, collectively, or in any combination.

D. **“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.

E. **“Written Authorization”** means an email, facsimile, or signed letter from a consumer sent to Defendants or their agents, employees, or representatives permitting Defendants to obtain or use a Consumer Report containing information about that consumer. Written Authorization does not include verbal or oral statements made by a consumer during a telephone call or in-person meeting.

ORDER

I. **Permanent Ban on Telemarketing**

IT IS ORDERED that Defendant, whether acting directly or through an intermediary, is permanently restrained and enjoined from engaging in, or assisting others to engage in, Telemarketing.

II. **Ban on Obtaining or Using Consumer Reports Without Written Authorization**

IT IS FURTHER ORDERED that Defendant, whether acting directly or through an intermediary, is permanently restrained and enjoined from:

A. **Obtaining any Consumer Report from any Consumer Reporting Agency or from any other person, unless Defendant proves it had Written Authorization to obtain such Consumer Report from the consumer before obtaining the Consumer Report;**

B. Using any Consumer Report for any purpose unless Defendant proves it had prior Written Authorization from the consumer authorizing Defendants to use such Consumer Report for the designated purpose before using it.

III. Prohibition Against Misrepresentations

IT IS FURTHER ORDERED that Defendant, Defendant's officers, agents, 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 promoting or offering for sale any good or service, are permanently restrained and enjoined from misrepresenting, or assisting others in misrepresenting, expressly or by implication:

- A. Defendant's affiliation or association with ADT, another competitor alarm installation or monitoring company, or any other business;
- B. Defendant's purchase or acquisition of ADT, another competitor alarm installation or monitoring company, or any other business; or
- C. The name of Defendant's business.

IV. Monetary Judgment for Civil Penalty and Suspension

IT IS FURTHER ORDERED that:

A. Judgment in the amount of Nine Million, Eight Hundred Forty-Five Thousand, and Twenty-One dollars (\$9,845,021) is entered in favor of the Commission against Defendant as a civil penalty, which is suspended based upon the truthfulness and accuracy of Defendant's initial disclosures and monthly operating reports, sworn to under penalty of perjury, filed in its Chapter 11 bankruptcy in the United States Bankruptcy Court for the District of Rhode Island. *In re Alliance Security Inc.*, Case No. 1:17-bk-11190 (Bankr. D. R.I).

B. The suspension of the judgment will be lifted if, upon motion by the Commission, the Court finds that Defendant failed to disclose any material asset, materially misstated the value of any asset, or made any other material misstatement or omission in the initial disclosures or monthly operating reports Defendant filed in connection with its chapter 11 bankruptcy proceeding, *In re Alliance Security Inc.*, Case No. 1:17-bk-11190 (Bankr. D. R.I.).

C. If the suspension of the judgment is lifted, the judgment becomes immediately due in the amount specified in Subsection A above (which the parties stipulate only for purposes of this Section represents the amount of the civil penalty for the violations alleged in the Complaint), less any payment previously made pursuant to this Section, plus interest computed from the date of entry of this Order.

V. Additional Monetary Provisions

IT IS FURTHER ORDERED that:

A. 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.

C. Defendant agrees that the judgment against it represents a civil penalty owed to the government of the United States, is not compensation for actual pecuniary loss, and, therefore, as to Defendant, is not subject to discharge under the Bankruptcy Code pursuant to 11 U.S.C. § 1141(d)(3) or 11 U.S.C. § 727(a).

D. Defendant acknowledges that its Employer Identification Number, which Defendant previously submitted in connection with the bankruptcy proceeding in Section IV,

above, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

VI. Customer Information

IT IS FURTHER ORDERED that Defendant, Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, are permanently restrained and enjoined from directly or indirectly disclosing, using, or benefitting from customer information, including the name, address, telephone number, email address, social security number, credit score, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), that Defendant obtained prior to entry of this Order. *Provided, however,* that Defendant may disclose information about its current customers to any person that purchases Defendants' assets in connection with a sale approved by the Bankruptcy Court in *In re Alliance Security Inc.*, Case No. 1:17-bk-11190 (Bankr. D. R.I.).

VII. Cooperation

IT IS FURTHER ORDERED that 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. Defendant must provide truthful and complete information, evidence, and testimony. Defendant must cause its officers, employees, representatives, or agents to appear for interviews, discovery, hearings, trials, and any other proceedings that a Commission representative may reasonably request upon five days written notice, at such places and times that a Commission representative may designate, without requiring the service of a subpoena. Further, to assist the Commission with any investigation and with monitoring Defendant's compliance with this order, Defendant consents, for purposes of

Sections 2701-2712 of the Electronic Communications Privacy Act, to the disclosure of the contents and records of its auto-dialed, Telemarketing communications or other information pertaining to its auto-dialed, Telemarketing communications by electronic communications service providers and remote computing service providers. Defendant further agrees to execute, within fourteen (14) days of a request from the Commission, any forms or other documents evidencing its consent that may be required by such electronic communications service providers or remote computing service providers.

VIII. Order Acknowledgments

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

- A. Defendant, within seven 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 five years after entry of this Order, Defendant must deliver a copy of this Order, including Appendix A, to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and other 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 seven 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.

IX. Compliance Reporting

IT IS FURTHER ORDERED that Defendant make 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 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 twenty years after entry of this Order, Defendant must submit a compliance notice, sworn under penalty of perjury, within fourteen days of any change in the following:

1. 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 similar proceeding by or against such Defendant within fourteen 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. Alliance Security Inc., et al.*, Matter Number X140022.

X. Recordkeeping

IT IS FURTHER ORDERED that Defendant must create certain records for twenty years after entry of the Order, and retain each such record for five years. Specifically, Defendant, for any business that Defendant, individually or collectively with any other Defendant, is a majority owner or control 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. Records of all consumer complaints whether received directly or indirectly, such as through a third party, and any response; and
- D. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission.

XI. Compliance Monitoring

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendant Alliance Security's compliance with this Order, including the financial representations upon which part of the judgment was suspended and any failure to transfer any assets as required by this Order:

A. Within fourteen days of receipt of a written request from a representative of the Commission, Defendant must: (1) submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; (2) appear for depositions; and (3) 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 Defendant. Defendant must permit representatives of the Commission 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. The Commission 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 either 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.

SO ORDERED, this 31st day of July, 2019.

/s/ Honorable George A. O'Toole, Jr.

United States District Judge
Hon. George A. O'Toole, Jr.

SO STIPULATED AND AGREED:

FEDERAL TRADE COMMISSION



7/23/2019

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DATE

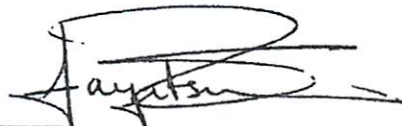
FOR DEFENDANT ALLIANCE
SECURITY INC.



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6/24/2019

DATE



Jasjit Gotra a/k/a Jay Gotra
*In his capacity as CEO and Majority Owner
of Defendant Alliance Security Inc.*

6/24/2019

DATE