

Attachment A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

FEDERAL TRADE COMMISSION,)

Plaintiff,)

v.)

F9 ADVERTISING LLC, a limited liability)
company,)

ACE INITIATIVE GROUP LLC, a limited)
liability company,)

CONNECTED AD STATION LLC, a)
limited liability company,)

Civil Action No: 19-CV-1174(DRD)

FASTLANE SALES LLC, a limited liability)
company,)

[PROPOSED]

**HYPER MARKETING SOLUTIONS)
LLC,** a limited liability company,)

**STIPULATED ORDER FOR
PERMANENT INJUNCTION
AND MONETARY JUDGMENT
AS TO DEFENDANTS
GOPALKRISHNA PAI AND
F9 ADVERTISING LLC**

MEDIA REDEFINED LLC, a limited)
liability company,)

PRIMED MARKETING LLC, a limited)
liability company,)

RESPONSIVE MEDIA LLC, a limited)
liability company, and)

GOPALKRISHNA PAI, individually and as)
an owner of F9 Advertising LLC, Ace)
Initiative Group LLC, Connected Ad Station)
LLC, Fastlane Sales LLC, Hyper Marketing)
Solutions LLC, Media Redefined LLC,)
Primed Marketing LLC, and Responsive)
Media LLC,)

Defendants.)
_____)

Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), filed its Complaint for permanent injunction and other equitable relief pursuant to Section 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 57b and Section 8404 of the Restore Online Shoppers’ Confidence Act (“ROSCA”), 15 U.S.C. § 8404. The Commission and Defendants Gopalkrishna Pai and F9 Advertising LLC stipulate to entry of this Stipulated Order for Permanent Injunction and Monetary Judgment as to Defendants Gopalkrishna Pai and F9 Advertising LLC (“Order”) to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS OF FACT

- A. This Court has jurisdiction over this matter.
- B. The Complaint charges that the Settling Defendants participated in deceptive acts or practices in violation of Section 4 of ROSCA, 15 U.S.C. § 8403.
- C. Settling Defendants accepted all allegations contained in the Complaint through a motion requesting reopening of the case proceedings filed on December 8, 2022. *FTC v. F9 Advertising LLC, et al.*, Civil Action No. 19-01174 (DRD) (D.P.R. [Motion filed] Dec. 8, 2022), ECF 45.
- D. Settling Defendants waive any claim they 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 agree to bear their own costs and attorney fees.
- E. Settling Defendants 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 shall apply:

- A. **“Billing Information”** means any data that enables any person to access a customer’s account, such as a credit card, checking, savings, share or similar account, utility bill, mortgage loan account, or debit card.

B. **“Charge,” “Charged,” or “Charging”** means any attempt to collect money or other consideration from a consumer, including but not limited to causing Billing Information to be submitted for payment, including against the consumer’s credit card, debit card, bank account, telephone bill, or other account.

C. **“Client”** means any business entity, individual, or individuals to whom any Settling Defendant provides services, who promotes or offers for sale any good or service with a Negative Option Feature.

D. **“Defendants”** means Corporate Defendants and Gopalkrishna Pai, individually, collectively, or in any combination.

E. **“Corporate Defendants”** means F9 Advertising LLC, Ace Initiative Group LLC, Connected Ad Station LLC, Fastlane Sales LLC, Hyper Marketing Solutions LLC, Media Redefined LLC, Primed Marketing LLC, Responsive Media LLC, and each of their subsidiaries, affiliates, successors, and assigns.

F. **“Individual Defendant”** means Gopalkrishna Pai, a/k/a GK Pai.

G. **“Settling Defendants”** means Gopalkrishna Pai and F9 Advertising LLC.

H. **“Negative Option Feature”** means, in an offer or agreement to sell or provide any good or service, a provision under which the consumer’s silence or failure to take affirmative action to reject a good or service or to cancel the agreement is interpreted by the seller or provider as acceptance or continuing acceptance of the offer.

ORDER

I. BAN RELATING TO NEGATIVE OPTION FEATURES

IT IS THEREFORE ORDERED that Settling Defendants are permanently restrained and enjoined from promoting or offering for sale, or assisting others in promoting or offering for sale, any good or service with a Negative Option Feature.

II. PROHIBITION AGAINST MISREPRESENTATIONS

IT IS FURTHER ORDERED that Settling Defendants, their 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, any material fact, including:

- A. Any cost to the consumer to purchase, receive, use, or return the initial good or service;
- B. That the consumer will not be Charged for any good or service;
- C. That the consumer can obtain a good or service for a processing, service, shipping, handling, or administrative fee with no further obligation;
- D. Any purpose for which the consumer's Billing Information will be used;
- E. That a transaction has been authorized by the consumer;
- F. The number of transactions that will be completed or the number of products that will be purchased; and
- G. Any material aspect of the nature or terms of a refund, cancellation, exchange, or repurchase policy for the good or service.

III. MONETARY JUDGMENT, SURRENDER OF ASSETS AND PARTIAL SUSPENSION

IT IS FURTHER ORDERED that:

- A. Judgment in the amount of Thirty-Four Million, Eighty-One Thousand, Seventy-Three Dollars (\$34,081,073.00) is entered in favor of the Commission against Settling Defendants, jointly and severally, as equitable monetary relief. Upon full and timely compliance with all subsections below, all but One Hundred Sixty-Nine Thousand, Nine Hundred Three Dollars and Twenty Cents (\$169,903.20) of the remaining balance shall be suspended.

B. Settling Defendants are ordered to, within seven (7) calendar days after entry of this Order, by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission, transfer all funds in the accounts listed below to the Federal Trade Commission:

1. Account Number ending in 9970 at Chime Bank in the name of Defendant Gopalkrishna Pai;
2. Account Number ending in 1099 at Axos Bank in the name of Defendant Gopalkrishna Pai;
3. Account Number ending in 7299 at Aspirational Financial in the name of Defendant Gopalkrishna Pai;
4. Account Number ending in 8180 at Robinhood Financial in the name of Defendant Gopalkrishna Pai;
5. Account Number ending in 6333 at Webull Financial in the name of Defendant Gopalkrishna Pai;
6. Account Number ending in 9595 at Chase Bank and held in trust by Gordon Law Group in the name of, or for the benefit of, Gopalkrishna Pai and F9 Advertising LLC;
7. Account Number ending in 8679 at Oriental Bank and held in trust by Sanchez Betances, Sifre & Munoz in the name of, or for the benefit of, Gopalkrishna Pai and F9 Advertising LLC.
8. The cash surrender value of the Independent Retirement Account ("IRA") ending in 6600 at Midland in the name of, or for the benefit of, Gopalkrishna Pai.

C. Any financial institution with control over any account identified in Subsection B is directed to cooperate with the Commission in facilitating the transfer of funds in the accounts to the Commission.

D. Individual Defendant represents that he has forfeited to the United States: \$250,000.00 in funds from bank account number ending in 409 at BBVA Compass Bank in Birmingham,

Alabama; \$15,202.54 in funds from bank account ending in 3734 at Charles Schwab Bank in El Paso, Texas; \$275,000.00 in funds from bank account ending in 4617 at Bank of America NE; and \$18,160.00 in U.S. Currency, in the case *U.S. v. Gopalkrishna Pai*, Case No. 9-26 (FAB), currently pending in the United States District Court for the District of Puerto Rico.

E. Within five (5) calendar days of entry of this Order, Individual Defendant shall cooperate fully with the Liquidator appointed in Section V of this Order and take such other steps as the Liquidator may require to transfer and assign to the Liquidator all his rights, title and interest in the August 16, 2016 Promissory Note ("Promissory Note") worth approximately Two Hundred Thousand Dollars (\$200,000) identified in Item 12 ("Amounts Owed to You, Your Spouse, or Your Dependents") of the Financial Statement of Individual Defendant, signed on January 9, 2023.

F. Within five (5) calendar days of entry of this Order, Defendant Gopalkrishna Pai shall cooperate fully with the Liquidator appointed in Section V of this Order and take such other steps as the Liquidator may require to transfer and assign to the Liquidator all his rights, title and security interest, including a lien, in the August 16, 2016 Deed of Trust ("Deed of Trust"), which secures the Promissory Note and grants a security in real property and proceeds located at Lots 27, 28, 29, 30, and 31, Block 9, LINKWOOD ESTATES an Addition to the City of Fort Worth, Tarrant County, Texas, according to the map thereof recorded in Volume 388-7, Page 87, Map/Plat Records of Tarrant County, Texas ("Real Property").

G. Individual Defendant represents and acknowledges that the FTC is relying on material representations that the Deed of Trust is recorded, Individual Defendant is the first lien debt holder on the Real Property, and the Real Property is not encumbered by any other lien, assignment, security interest or other interest not otherwise disclosed in the Deed of Trust or financial disclosures previously made to the Commission with priority over Individual Defendant's lien.

H. Individual Defendant and his agents, employees, or other representatives are enjoined from interfering in any manner with the appointment of a Trustee or the Trustee's foreclosure of the Real Property as required in the Deed of Trust and ordered in Section V below.

I. Settling Defendants shall take all steps necessary to assist in the transfer, assignment and liquidation of the assets identified in this Section III. In the event it is necessary to execute additional documents to transfer, assign, or liquidate the assets of Settling Defendants or any other assets that are to be surrendered under this Order, Settling Defendants shall execute such documents within three business days of a request from the Commission or Liquidator.

J. The Commission's agreement to the suspension of part of the judgment is expressly premised upon the truthfulness, accuracy, and completeness of Settling Defendants' sworn financial statements and related documents (collectively, "financial representations") submitted to the Commission, namely:

1. the Financial Statement of Settling Defendant Gopalkrishna Pai signed on January 9, 2023, including the attachments;
2. the Financial Statement of Settling Defendant F9 Advertising LLC, signed by Gopalkrishna Pai on January 9, 2023, including the attachments; and
3. The additional documentation, emails, and information submitted by Settling Defendants' counsel to Commission counsel on January 25, 2023; March 10, 2023; March 16, 2023; April 6, 2023; July 7, 2023; and July 11, 2023, attaching financial documents, attachments, and information.

K. The suspension of the judgment will be lifted as to any Settling Defendant if, upon motion by the Commission, the Court finds that Settling Defendant failed to disclose any material asset, materially misstated the value of any asset, or made any other material misstatement or omission in the financial representations identified above.

L. If the suspension of the judgment is lifted, the judgment becomes immediately due as to that Settling Defendant in the amount of Thirty-Four Million, Eighty-One Thousand, Seventy-Three Dollars (\$34,081,073.00) (which the parties stipulate only for purposes of this Section

represents consumer injury alleged in the Complaint), plus statutory interest from entry of the order, minus any amounts already paid.

IV. ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

A. Settling Defendants relinquish 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. Settling Defendants acknowledge that their Taxpayer Identification Numbers (Social Security Numbers or Employer Identification Numbers), which Settling Defendants 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 Defendants' practices alleged in the Complaint. Any money not used for such equitable relief is to be deposited to the U.S. Treasury as disgorgement.

Settling Defendants have no right to challenge any actions the Commission or its representatives may take pursuant to this Subsection.

V. APPOINTMENT AND DUTIES OF LIQUIDATOR

IT IS FURTHER ORDERED that the FTC will appoint a Liquidator, with all rights and powers of an equity receiver over the Promissory Note, Deed of Trust, and Real Property described in Sections III.E and III.F.

A. Upon transfer of all rights, title and interest in the Promissory Note and Deed of Trust (identified in Sections III.E and III.F) to the Liquidator, the Liquidator, as soon as reasonably possible, shall, at reasonable cost and in a commercially reasonable fashion, ensure appointment of a Trustee under the Deed of Trust and direct the Trustee to foreclose on the lien on the Real Property and disburse the proceeds in accordance with Section D, "Trustee's Rights and Duties," of the Deed of Trust.

B. The Liquidator shall keep a true and accurate account of any and all expenditures and proceeds related to the foreclosure on the Real Property and provide this information to the Commission within three (3) calendar days of a request from the Commission.

C. The Liquidator is entitled to reasonable compensation for the performance of duties undertaken pursuant to this Order and for the costs of actual out-of-pocket expenses incurred by him. The Liquidator's commission and expenses are to be paid solely from the proceeds of the foreclosure of the lien under the Deed of Trust.

D. After the lien on the Real Property has been foreclosed upon and the Liquidator has paid the expenses in subsection C, the Liquidator shall transfer the remaining proceeds of the foreclosure on the lien to the Commission. The Liquidator shall make the transfer required by this paragraph by electronic fund transfer or certified cashier's check in accordance with instructions previously provided by the Commission.

E. Upon the final transfer of funds to the Commission pursuant this Section, the duties of the Liquidator shall terminate immediately. The Liquidator shall complete his duties

and terminate his service within 180 days of the execution of this Order, unless good cause is shown to extend beyond 180 days.

VI. CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Settling Defendants, their 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:

A. failing to provide sufficient customer information to enable the Commission to efficiently administer consumer redress. If a representative of the Commission requests in writing any information related to redress, Settling Defendants must provide it, in the form prescribed by the Commission, within 14 days.

B. disclosing, using, or benefitting from customer information, including the name, address, telephone number, email address, social security number, 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 any Settling Defendant obtained prior to entry of this Order in connection with online transactions promoting or offering for sale any good or service with a Negative Option Feature; and

C. failing to destroy such customer information in all forms in their possession, custody, or control within 30 days after receipt of written direction to do so from a representative of the Commission.

Provided, however, that customer information need not be disposed of, and may be disclosed, to the extent requested by a government agency or required by law, regulation, or court order.

VII. ORDER ACKNOWLEDGMENTS

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

A. Settling Defendants, 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, Individual Defendant for any business that he, individually or collectively with any other Defendants, is the majority owner of or controls directly or indirectly, and Corporate Defendant F9 Advertising LLC, 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; (3) all employees, agents, and representatives who participate in conduct related to the subject matter of the Order; and (4) 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 a Settling Defendant delivered a copy of this Order, that Settling Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

VIII. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Settling Defendants make timely submissions to the Commission:

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

1. Each Settling 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 that Settling Defendant; (b) identify all of that Settling 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, the means of advertising,

marketing, and sales, and the involvement of any other Defendant (which Individual Defendant must describe if he knows or should know due to his own involvement); (d) describe in detail whether and how that Settling 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, the Individual 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 such Individual Defendant performs services, whether as an employee or otherwise, and any entity in which such Individual Defendant has any ownership interest; and (c) describe in detail such Individual 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, Settling Defendants must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. Each Settling Defendant must report any change in: (a) any designated point of contact; or (b) the structure of any Corporate Defendant or any entity that such Settling 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, the Individual Defendant must report any change in: (a) name, including aliases or fictitious names, or residence address; or (b) title or role in any business activity, including any business for which such Individual Defendant performs services, whether as an employee or otherwise, and any entity in which such Individual Defendant has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity.

C. Settling Defendants must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such 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. F9 Advertising LLC et al.*, Civil Action No. 19-cv-1174 (DRD).

IX. RECORDKEEPING

IT IS FURTHER ORDERED that Settling Defendants must create certain records for 10 years after entry of the Order, and retain each such record for 5 years. Specifically, Settling Defendants for any business that each such Defendant, individually or collectively with any other Defendants, is a majority owner of 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. 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.

X. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Settling Defendants' 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 14 days of receipt of a written request from a representative of the Commission, Settling Defendants 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 Settling Defendants. Settling Defendants must permit representatives of the Commission to interview any employee or other person affiliated with any 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 Settling Defendants or any individual or entity affiliated with Settling Defendants, 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 Settling Defendants, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. §1681b(a)(1).

XI. RETENTION OF JURISDICTION

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

IT IS SO ORDERED:

JUDGE DANIEL R. DOMINGUEZ


DATED: _____

SO STIPULATED

FOR THE PLAINTIFF FEDERAL TRADE COMMISSION:

Michelle Schaefer
/s/ _____
MICHELLE SCHAEFER (G02910)
Federal Trade Commission
600 Pennsylvania Avenue, NW
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FOR DEFENDANTS GOPALKRISHNA PAI AND F9 ADVERTISING LLC

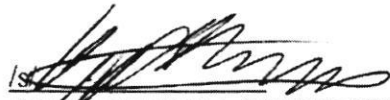
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DEFENDANTS GOPALKRISHNA PAI AND F9 ADVERTISING LLC



GOPALKRISHNA PAI INDIVIDUALLY
AND AS AN OFFICER OF F9 ADVERTISING LLC