

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FEDERAL TRADE COMMISSION	:	CIVIL ACTION
	:	
v.	:	No. 08-
	:	
NHS SYSTEMS, INC., et al.	:	

2. **“Individual Non-Settling**

8. **“Plaintiff”** means the Federal Trade Commission.

9. **“Telemarketing”** means the advertising, offering for sale, or sale of any good or service to any person by means of telephone sales presentations, either exclusively or in conjunction with the use of other advertising.

10. The terms **“and”** and **“or”** shall be construed conjunctively or disjunctively as necessary to make the applicable phrase or sentence inclusive rather than exclusive.

I. BAN ON TELEMARKETING

IT IS THEREFORE ORDERED that the Non-Settling NHS/PHS Defendants are hereby permanently restrained and enjoined from engaging in, participating in, or assisting in the Telemarketing, in any manner, of any product or service to any person.

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IT IS FURTHER ORDERED that the Non-Settling NHS/PHS Defendants are hereby permanently restrained and enjoined from causing or inducing (str)-9(a)4(ined)-oiii.a

service or otherwise, whether acting directly or

and delivered to the FTC or by wire transfer in accordance with directions provided by the FTC to be deposited into an account maintained by the FTC or its agent. Such funds shall be (1) distributed as redress to consumers, and/or (2) paid to the U.S. Treasury as equitable disgorgement, if the FTC deems such distribution impractical.

C. In accordance with 31 U.S.C. § 7701, each Non-Settling NHS/PHS Defendant is hereby required, unless that Non-Settling NHS/PHS Defendant has done so already, to furnish the FTC the Non-Settling NHS/PHS Defendant's taxpayer identifying number (social security numbers or employer identification number), which shall be used for purposes of collecting and reporting on any delinquent amount arising out of that NHS/PHS Defendant's relationship with the government.

V. PROHIBITION ON DISCLOSING CUSTOMER LISTS

IT IS FURTHER ORDERED that Non-Settling NHS/PHS Defendants, and their officers, agents, servants, employees, and corporations, and all other Persons in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise, are permanently restrained and enjoined from:

A. 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 custom

custody, or control within thirty (30) days after entry of this Order. Disposal shall be by means that protect against unauthorized access to the customer information, such as by burning, pulverizing, or shredding any papers, and by erasing or destroying any electronic media, to ensure that the customer information cannot practicably be read or reconstructed.

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 a law, regulation, or court order. *Provided, further,* that the Non-Settling NHS/PHS Defendants shall turn over any electronic customer lists in their possession, custody, or control to the Commission for purposes of effectuating redress of consumer injury.

VI. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring and investigating compliance with any provision of this Order:

A. Within ten (10) days of receipt of written notice from a representative of the Commission, Non-Settling NHS/PHS Defendants each shall submit additional written reports, which are true and accurate and sworn to under penalty of perjury; produce Documents for inspection and copying; appear for deposition; and provide entry during normal business hours to any business location in each Non-Settling NHS/PHS Defendant's possession or direct or indirect control to inspect the business operation;

B. In addition, the Commission is authorized to use all other lawful means, including but not limited to:

1. obtaining discovery from any Person, without further leave of court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, 45 and 69; and

employment), and any change in his or her ownership in any business entity, within ten (10) days of the date of such change. Such notice shall include the name and address of each business that he or she is affiliated with, employed by, creates or forms, or performs services for; a detailed description of the nature of the business; and a detailed description of his or her duties and responsibilities in connection with the business or employment; and

c. Any changes in his or her name or use of any aliases or fictitious names within ten (10) days of the date of

setting forth in detail the manner and form in which they have complied and are complying with this Order. This report shall include, but not be limited to:

1. For the Individual Non-Settling NHS/PHS Defendants:
 - a. his or her then-current residence address, mailing addresses, and telephone numbers;
 - b. his or her then-current employment status (including self-employment), including the name, addresses, and telephone numbers of each business that he or she is affiliated with, employed by, or performs services for; a detailed description of the nature of the business; and a detailed description of his or her duties and responsibilities in connection with the business or employment; and
 - c. Any other changes required to be reported under Subsection A of this Section.
2. For all Non-Settling NHS/PHS Defendants:
 - d. A copy of each acknowledgment of receipt of this Order, obtained

courier (not the U.S. Postal Service) all reports and notifications to the Commission that are required by this Order to:

Associate Director for Enforcement
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20580
RE: FTC v. NHS Systems, Inc. et. al (Matter No. X080043)
(Case No. 08-CV-2215, E. D. Pa.)

Provided that, in lieu of overnight courier, the Non-Settling NHS/PHS Defendants may send such reports or notifications by first-class mail, but only if the Non-Settling NHS/PHS Defendants contemporaneously send an electronic version of such report or notification to the Commission at *DEBrief@ftc.gov*.

E. For purposes of the compliance reporting and monitoring required by this Order, the Commission is authorized to communicate directly with each Non-Settling NHS/PHS Defendant.

VIII. RECORD KEEPING PROVISIONS

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry of this Order, corporate Non-Settling NHS/PHS Defendants, in connection with the advertising, marketing, promotion, offering for sale, or sale of any product or service or services, and each Individual Non-Settling

B. Personnel records accurately reflecting: the name, address, and telephone number of each Person employed in any capacity by such business, including as an independent contractor; that Person's job title or position; the date upon which the Person commenced work; and the date and reason for the Person's termination, if applicable;

C. Customer files containing the names, addresses, phone numbers, dollar amounts paid, quantity of items or services purchased, and description of items or services purchased, to the extent such information is obtained in the ordinary course of business;

D. Complaints and refund requests (whether received directly or indirectly, such as through a third party) and any responses to those complaints or requests;

E. Copies of all sales scripts, training materials, advertisements, or other marketing materials; and

F. All records and Documents necessary to demonstrate full compliance with each provision of this Order, including but not limited to, copies of acknowledgments of receipt of this Order required by the Sections titled "Distribution of Order" and "Acknowledgment of Receipt of Order" and all reports submitted to the FTC pursuant to the Section titled "Compliance Reporting."

IX. DISTRIBUTION OF ORDER

person of a business but otherwise engages in conduct related to the subject matter of this Order, he or she must deliver a copy of this Order to all principals and managers of such business before engaging in such conduct.

D. Non-Settling NHS/PHS Defendants must secure a signed and dated statement acknowledging receipt of the Order, within thirty (30) days of delivery, from all Persons receiving a copy of the Order pursuant to this Section.

X. ACKNOWLEDGMENT OF RECEIPT OF ORDER

IT IS FURTHER ORDERED that each Non-Settling NHS/PHS Defendant, within five (5) business days of receipt of this Order as entered by the Court, must submit to the Commission a truthful sworn statement acknowledging receipt of this Order.

XI. DISSOLUTION OF PRELIMINARY INJUNCTIONS

IT IS FURTHER ORDERED that upon entry of this Order, the Stipulated Preliminary Injunctions entered on June 10, 2008, and July 24, 2009, are dissolved, except as to those provisions of each order related to the Receivership. Any entity who froze Assets of any Individual Non-Settling NHS/PHS Defendant under those Orders and still holds assets of the Individual Non-Settling NHS/PHS Defendant shall, within 10 days of the entry of this Order, transfer those assets to the FTC in the form of a certified check made payable to and delivered to the FTC or by wire transfer in accordance with directions provided by the FTC to be deposited into an account maintained by the FTC or its agent.

The Receivership as created by the Preliminary Injunction of June 10, 2008 and expanded by the Preliminary Injunction of July 24, 2009, shall remain in full force and effect until such

time as the dispute between the Receiver and Teledraft, Inc., is resolved and this Court issues an Order dissolving the Receivership.

IT IS FURTHER ORDERED that the