

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FEDERAL TRADE COMMISSION,

Plaintiff,

vs.

POSITION GURUS, LLC, a Washington limited liability corporation; TOP SHELF ECOMMERCE, LLC, a Washington limited liability corporation; AARON POYSKY, individually and as an owner of POSITION GURUS, LLC, and TOP SHELF ECOMMERCE, LLC; STACY GRIEGO, individually and as an owner of POSITION GURUS, LLC, and TOP SHELF ECOMMERCE, LLC; and SAMUEL COHEN BROWN, individually and as an owner of POSITION GURUS, LLC, and TOP SHELF ECOMMERCE, LLC,

Defendants.

Case No. 2:20-cv-00710-BJR

STIPULATED ORDER FOR PERMANENT INJUNCTION AND MONETARY JUDGMENT AS TO DEFENDANT SAMUEL COHEN BROWN

Plaintiff, the Federal Trade Commission (~~RPPEQU~~ ~~7&~~ filed its Complaint
~~R8ED~~ ~~RAQ2~~ ~~58~~ ~~PSQ~~ , for permanent injunction,
and other equitable relief in this matter, pursuant to Sections 13(b) and 19 of the Fe(EN)3 (DA)-2 437.62 454 Tr

~~DEFENDANT~~), 15 U.S.C., §§ 6101±6108, and the
~~ROFHU5HYLHZDLUHQVVFWRIRF\$86E~~. The Commission and
Defendant Samuel Cohen Brown stipulate to the entry of this Stipulated Order for Permanent
Injunction and Monetary Judgment as to Samuel Cohen Brown ~~2UGHUWRUHVROYHDOOPDWWHUV~~
in dispute between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants participated in deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, ~~WKH7WUDGHUJHJDWLRQHHQLWOHG7HOHPDUNHWLQDOHV5QH7653DUWDQ~~ the CRFA, 15 U.S.C. § 45b, in the operation of a telemarketing scheme offering consumers products and services that purportedly assist consumers in developing and marketing a home-based Internet business.
3. Defendant Samuel Cohen Brown 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 Samuel Cohen Brown admits the facts necessary to establish jurisdiction.
4. Defendant Samuel Cohen Brown waives any claim that he 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 his own costs and attorney fees.
5. Defendant Samuel Cohen Brown 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. **3Business Coaching Service** means any product or service, including any program or plan, that is represented, expressly or by implication, to train or teach a consumer how to establish, operate, or improve a business.
- B. **3Covered Communication**~~PHDQDZLWWHQUDORUWFWRULDOUHLYLHSHUIRUPDQH~~ assessment, or other similar analysis of goods or services, including conduct related to the goods or services.
- C. **3Customer Information of a Financial Institution** shall have the same meaning as set out in Section 6827(2) of the Gramm Leach Bliley Act, 15 U.S.C. § 6827.

IT IS FURTHER ORDERED that Defendant, ~~XXXXXX~~ and all others in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with Telemarketing of any good or service, are permanently restrained and enjoined from:

- A. Failing to disclose, truthfully, promptly, and in a clear and conspicuous manner: (1) the identity of the seller; (2) that the purpose of the call is to sell goods and services; and (3) the nature of those goods and services; and
- B. Violating any provision of the TSR.

IV. PROHIBITIONS AGAINST MISREPRESENTATIONS

IT IS FURTHER ORDERED that ~~XXXXXX~~ nts, employees, and all others in active concert or participation with any of them, who 94i 0 0 12 136.46 512.59 Tm(s)TjET@ 0

1. Defendant shall immediately attempt to sell the Vehicle at a fair market value (based on Kelly Blue Book value);

2. If Defendant has not sold the Vehicle within 120 days of entry of this Order, Defendant shall sell the Vehicle at a fair market value (based on Kelly Blue Book) by advertising it for sale through an online auction service and selling it to the highest bidder, or by placing the Vehicle for sale through an appropriate broker or automobile listing service;

3. Before placing an ad or otherwise listing the Vehicle for sale, and before accepting a bid or offer, Defendant shall provide to Commission counsel documentation for the proposed sale price and for any and all bids or offers received;

4. Defendant shall in no way profit directly or indirectly from the sale of the Vehicle, including by sharing in any sales commission or fee, or by receiving anything of value of any kind;

5. Pending sale of the Vehicle, Defendant shall (a) maintain the Vehicle in good

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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.

2. Additionally, 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 Defendant performs services, whether as an employee or otherwise, and any entity in which Defendant has any ownership interest; and (c) describe in

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. Position Gurus, et al.*

XI. RECORDKEEPING

IT IS FURTHER ORDERED that Defendant must create certain records for ten (10) years after entry of the Order, and retain each such record for five (5) years. Specifically, for any business that Defendant is a majority owner or controls directly or indirectly, Defendant 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~~ 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.

XII. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendant'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 (14) days of receipt of a written request from a representative of the Commission, Defendant 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 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 Defendant, without the necessity of identification or prior

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