

BRIAN M. WELKE
JONATHAN COHEN
EVAN M. MENDELSON
DANIEL T. WILKES
Federal Trade Commission
600 Pennsylvania Avenue NW, CC- 6316
Washington, DC 20580
(202) 326-2897; bwelke@ftc.gov
(202) 326-2551; jcohen2@ftc.gov
(202) 326-3320; emendelson@ftc.gov
(202) 326-3679; dwilkes@ftc.gov

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

Federal Trade Commission,

Plaintiff,

v.

SuperGoodDeals.com, Inc.; and

Kevin J. Lipsitz, individually and as an officer of
SuperGoodDeals.com, Inc.,

Defendants.

Case No. 20-cv-3027-ENV-RER

**STIPULATED ORDER FOR
PERMANENT INJUNCTION
AND MONETARY
JUDGMENT**

Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), filed its Complaint for Permanent Injunction and Other Equitable Relief (“Complaint”), for a permanent injunction, monetary relief, and other relief in this matter, pursuant to Sections 13(b) and 19 of the Federal Trade Comts .3,

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, and MITOR, 16 C.F.R. Part 435, by failing to ship purchased goods within one business day as advertised; failing to have a reasonable basis to ship purchased goods within one business day as advertised; failing to ship orders within the timeframe required by MITOR and failing to offer consumers the opportunity to consent to a delay in shipping or to cancel their order and receive a refund; failing to provide requested or required refunds; and marketing and selling counterfeit, not certified, or not specifically branded goods as authentic, certified, or specifically branded.
3. Defendants admit all of the facts and allegations as set forth in this action's Complaint [Dkt. 1].
4. Defendants waive any claim that 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.
5. Defendants 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. **“Applicable Time Period”** means the time stated in Defendants' solicitation or within 30 days of Receipt of a Properly Completed Order if no time is stated in the solicitation.

B. “

7. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.

8. When the representation or sales practice targets a specific audience, such as children, the elderly, or the terminally ill, “ordinary consumers” includes reasonable members of that group.

C. “**Corporate Defendant**” means SuperGoodDeals.com, Inc., and each of its subsidiaries, affiliates, successors, and assigns.

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

E. “**Document**” is synonymous in meaning and equal in scope to the usage of “document” and “electronically stored information” in Federal Rule of Civil Procedure 34(a), Fed. R. Civ. P. 34(a), and includes writings, drawings, graphs, charts, photographs, sound and video recordings, images, internet sites, web pages, websites, electronic correspondence, including e-mail and instant messages, contracts, accounting data, advertisements, FTP Logs, Server Access Logs, books, written or printed records, handwritten notes, telephone logs, telephone scripts, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, computer records, customer or sales databases and any other electronically stored information, including Documents located on remote servers or cloud computing systems, and other data or data compilations from which information can be obtained directly or, if necessary, after translation into a reasonably usable form. A draft or non-identical copy is a separate Document within the meaning of the term.

F. “**Individual Defendant**” means Kevin J. Lipsitz.

G. **“Option”** means an offer made Clearly and Conspicuously and without prior demand.

H. **“Personal Protective Equipment”** means protective clothing, helmets, gloves, face shields, goggles, facemasks, respirators, or other equipment designed, intended, or represented to protect the wearer from the spread of infection or illness.

I. **“Prompt,”** in the context of a Refund, means a Refund sent by any means at least as fast and reliable as first-class mail within 7 days of the date on which the buyer’s right to Refund vests under the provisions of this Order. Provided, however, that where Defendants cannot provide a Refund by the same method payment was tendered, Prompt Refund means a Refund sent in the form of cash, check, or money order, by any means at least as fast and reliable as first class mail, within 7 days of the date on which Defendants discover they cannot provide a Refund by the same method as payment was tendered.

J. **“Protective Goods and Services”** means any good or service designed, intended, or represented to detect, treat, prevent, mitigate, or cure COVID-19 or any other infection or disease, including, but not limited to, Personal Protective Equipment, hand sanitizer, and thermometers.

K. **“Refund”** means:

1. Where the buyer tendered full payment for the unshipped merchandise in the form of cash, check, or money order, a return of the amount tendered in the form of cash, check, or money order sent to the buyer;

2. Where there is a credit sale:

c. A statement from Defendant sent to the buyer acknowledging the cancellation of the order and representing that Defendant has not taken any action regarding the order which will access any of the buyer's funds.

L. **“Receipt of a Properly Completed Order”** means, where the buyer tenders full or partial

L

e th of

2. Where Defendants have provided a definite revised Shipping date, pursuant to II.D.1.a, that is more than 30 days later than the Applicable Time Period, Defendants must also Clearly and Conspicuously inform the buyer that the buyer's order will automatically be deemed to have been cancelled unless:

a. Defendants have Shipped the merchandise within the Applicable Time Period, and the Defendants have received no cancellation request prior to Shipment; or

b. The buyer has specifically consented to said Shipping delay within the Applicable Time Period.

3. Where Defendants have informed the buyer that they cannot make any representation regarding the length of the delay pursuant to Section II.D.1.b, Defendants must also Clearly and Conspicuously inform the buyer that the buyer's order will automatically be deemed to have been cancelled unless:

a. Defendants have Shipped the merchandise within 30 days of the Applicable Time Period, and the Defendants have received no cancellation request prior to Shipment; or

b. The buyer has specifically consented to said Shipping delay within 30 days of the Applicable Time Period. Provided however, Defendants must also expressly inform the buyer that the buyer will have a continuing

cancel the order and receive a Prompt Refund. Said Option must be made within a reasonable time after the Defendants first become aware of their inability to Ship before the said definite revised Shipping date, but in no event later than the expiration of the definite revised Shipping date. Provided however, that any such Option must provide a new definite revised Shipping date, unless Defendants lack a reasonable basis for doing so. In such event, Defendants must also provide the notices required by Section II.D.1.b and Section II.D.3 of this Order.

F. Failing to cancel any order and provide the buyer with a Prompt Refund:

1. When Defendants have received a cancellation and Refund request from the buyer pursuant to Section II of this Order;
2. Under the circumstances prescribed in Sections II.D.2 and II.D.3;
3. When Defendants fail to provide the Option required by Section II.D and have not shipped the merchandise within the Applicable Time Period; or
4. When Defendants notify the buyer that they have decided not to Ship the merchandise.

III.

IT IS FURTHER ORDERED that in any action brought by the Commission alleging a violation of Section II of this Order, the fySe fySe 3.oe9(r)3 (-1083 Td(3.oI)13 (o)-10Ft(3.oI)13 (o)-10F 108t

representative of the Commission. Upon such payment, the remainder of the judgment is suspended, subject to the Subsections below.

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

1. The Financial Statement of Individual Defendant, Kevin J. Lipsitz, signed on November 30, 2021, including the attachments;
2. The Financial Statement of Corporate Defendant, SuperGoodDeals.com, Inc., signed by Kevin J. Lipsitz on November 20, 2021, including the attachments;
3. The tax information submitted by, or under the direction of, Defendants' counsel to the FTC on December 7, 2021;
4. The supplemental tax and financial information submitted by, or under the direction of, Defendants' counsel to the FTC on February 16, 2022;
5. The supplemental sales and shipping information submitted by, or under the direction of, Defendants' counsel to the FTC on February 17, 2022;
6. The supplemental personal financial and criminal case information submitted by, or under the direction of, Defendants' counsel to the FTC on April 9, 2022;
7. The supplemental personal financial information submitted by, or under the direction of, Defendants' counsel to the FTC on April 12, 2022;

8. The supplemental sales and shipping information submitted by, or under the direction of, Defendants' counsel to the FTC on April 19, 2022;
9. The supplemental personal financial information submitted by, or under the direction of, Defendants' counsel to the FTC on April 29, 2022;
10. The supplemental personal financial information submitted by, or under the direction of, Defendants' counsel to the FTC on May 13, 2022;
11. The supplemental home appraisal information submitted by, or under the direction of, Defendants' counsel to the FTC on June 15, 2022;
12. The supplemental personal financial information submitted by, or under the direction of, Defendants' counsel to the FTC on October 19, 2022; and
13. The supplemental personal financial information submitted by, or under the direction of, Defendants' counsel to the FTC on November 1, 2022;
14. The supplemental personal financial information submitted by, or under the direction of, Defendants' counsel to the FTC on December 13, 2022;
15. The supplemental personal financial information submitted by, or under the direction of, Defendants' counsel to the FTC on January 12, 2023;
16. The supplemental personal financial declaration submitted by, or under the direction of, Defendants' counsel to the FTC on January 31, 2023;
17. The "House Sale Deed and Closing Statement" provided by Defendants to the FTC on December 4, 2023; and
18. The supplemental personal financial declaration submitted by Kevin J. Lipsitz and executed on December 6, 2023.

D. The suspension of the judgment will be lifted as to any Defendant if, upon motion by the Commission, the Court finds that any 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.

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

VI. ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

A. 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. Defendants acknowledge that their Taxpayer Identification Numbers or Employer Identification Numbers, which Defendants must submit 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 received by the Commission pursuant to this Order may be deposited into a fund administered by the Commission or its designee to be used for consumer relief, such as 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 such redress is completed, the Commission may apply any remaining money for such related relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the Complaint. Any money not used for relief is to be deposited to the U.S. Treasury. Defendants have no right to challenge any actions the Commission or its representatives may take pursuant to this Subsection.

VII. CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Defendants, Defendants' 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, 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, 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

he has any ownership interest; and (c) describe in detail such his involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.

B. For 20 years after entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. Each Defendant must report any change in: (a) any designated point of contact; or (b) the structure of Corporate 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.

2. Additionally, Individual Defendant must report any change in: (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for which he performs services whether as an employee or otherwise and any entity in which he has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity.

C. Each Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against

E. A copy of each unique advertisement or other marketing material making any representation concerning the shipping, refunds, or returns of any good ordered by mail, via the internet, or by telephone, or the authenticity, certification, or specific branding of any product or service.

XI. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring 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, each 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 Defendants. Defendants must permit representatives of the Commission to interview any employee or other person affiliated with Defendants 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 Defendants or any individual or entity affiliated with Defendants, without the necessity of identification

or prior notice. Nothing in this Order limits the Commission’s lawful use of compulsory

SO STIPULATED AND AGREED:

FOR PLAINTIFFS:

FEDERAL TRADE COMMISSION

Date: 2/26/2024

BRIAN M. WELLS
JONATHAN COHEN
EVAN M. [REDACTED]
DANIEL T. WELLS

Federal Trade Commission
600 Pennsylvania Avenue, N.W., CC-5310
Washington, D.C. 20547
(202) 326-2877; ower@ftc.gov
(202) 326-2851; jcohen@ftc.gov
(202) 326-3679; d[REDACTED]

FOR DEFENDANTS:

Date: 2/26/24

JOSEPH M. CALDARERA
Law Offices of Robert Tsigler PLLC
299 Broadway, Suite 1200
New York, New York 10007
(212) 878-3781; jcc@tsiglerlaw.com

COUNSEL FOR SUPERGOODDEALS.COM, INC. and

SUPERGOODDEALS.COM, INC. and

KEVIN J. LIPSITZ, individually
And as