

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

Case No. 17-CV-80619-WPD

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

STRATEGIC STUDENT SOLUTIONS LLC, a
limited liability company, et al.,

Defendants, and

DG INVESTMENT PROPERTIES LLC,

Relief Defendant.

**PLAINTIFF FEDERAL TRADE COMMISSION'S MOTION
TO COMPEL DEFENDANTS TO RESPOND TO INTERROGATORIES
AND DOCUMENT REQUESTS AND SUPPORTING MEMORANDUM OF LAW**

Plaintiff the Federal Trade Commission (“FTC”) respectfully requests the Court to compel Defendant Dave Green (“Green”); Defendants Strategic Student Solutions LLC, Strategic Credit Solutions LLC, Strategic Doc Prep Solutions LLC, Strategic Debt Solutions LLC, Student Relief Center LLC and Credit Relief Center LLC (“Corporate Defendants”); and Relief Defendant DG Investment Properties LLC (“Relief Defendant”)¹ to respond to Interrogatories and requests for production of documents (“Document Requests”) served on them by the FTC. The FTC served Interrogatories on Green, Corporate Defendants, and Relief Defendant while they were still represented by counsel, and later served Document Requests and Requests for Admissions (“RFAs”) on Green. The deadline for a response has expired. To date, Defendants have failed to respond in any way to any discovery requests. The FTC respectfully request that the Court compel Defendants to respond to discovery in this case.

I. BACKGROUND

Defendants operated a student loan debt relief and credit repair scheme preying on consumers attempting to seek forgiveness of a portion of their student loans. The Court issued a temporary restraining order on May 15, 2017, and entered a stipulated preliminary injunction on May 26, 2017. ECF Nos. 10 and 42. Defendants’ counsel, Greenspoon Marder, filed a motion to withdraw on June 27, 2017, which the Court conditionally granted on July 21, 2017, only upon notification that Defendants’ financial disclosures were complete and that Corporate Defendants retained new counsel. ECF Nos. 49 and 64. The FTC sent Defendants’ counsel Interrogatories directed to Green, Corporate Defendants, and Relief Defendant on September 29, 2017. Defendants’ counsel renewed its motion to withdraw on August 28, 2017, including an added request for attorneys’ fees from July 21, 2017 until its representation in the matter ended,

¹ For ease of reference, Green, Corporate Defendants, and Relief Defendant are collectively referred to as “Defendants” in this motion.

stating that “[s]ince the Court’s [July 21, 2017] ruling, counsel has made repeated efforts to have Mr. Green complete the financial disclosures, without any success.” ECF No. 79. To date, Green still has not fully completed the required financial disclosures. The Court entered a stipulated order that allowed Defendants’ counsel to withdraw and denied attorneys’ fees on October 5, 2017. ECF No. 88. In the same order, the Court issued a 30-day stay in the case for Corporate Defendants and Relief Defendant to hire new counsel. *Id.* The stay expired on November 6, 2017. Despite having notice since June 2017 that Defendants’ counsel sought to withdraw, Corporate Defendants and Relief Defendant have failed to hire new counsel. The deadline for a response to the Interrogatories, factoring in the 30-day stay, passed on November 30, 2017. On November 7, 2017, the FTC sent Green the FTC’s Document Requests and RFAs via e-mail and overnight FedEx mail to Green’s home address. The deadline for a response passed on December 7, 2017. To date, the Defendants have failed to provide any responses to any of the discovery propounded by the FTC.

FTC counsel has attempted to meet and confer with Green to address his failure to respond to the discovery requests to no avail. Counsel for the FTC contacted Green via e-mail on December 11, 2017, sent priority overnight FedEx mail to Green’s home address on December 12, 2017, and called the phone number Green listed on his financial statement on December 14, 2017 in attempts to meet and confer. Green has failed to respond to all of these attempts to resolve the issue.

In general, Defendant Green has not made it easy to contact him. On October 5, 2017, the Court ordered Green to submit a form to allow him to receive documents via ECF at a specified email address. ECF No. 88 (“Defendant, Dave Green, individually, may represent himself and receive notices of electronic filings, however, he must file the attached Consent by

Pro Se Litigant.”). Green has failed to comply with the Court order and submit the form, consenting to receive notices electronically at a current e-mail address maintained with the Court.

II. LEGAL STANDARDS

The Federal Rules of Civil Procedure explicitly state that Defendants are obligated to respond to discovery requests within 30 days after being served. Under Fed. R. Civ. P. 33, “[e]ach interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath,” Fed R. Civ. P. 33(b)(3), and “[t]he responding party must serve its answers and any objections within 30 days after being served with the interrogatories,” Fed R. Civ. P. 33(b)(2).

Under Fed. R. Civ. P. 34, “[t]he party to whom the [document] request is directed must respond in writing within 30 days after being served or — if the request was delivered under Rule 26(d)(2) — within 30 days after the parties’ first Rule 26(f) conference.” Fed. R. Civ. P. 34(b)(2)(A). It further states, “[f]or each item or category, the response must either state that inspection and related activities will be permitted as requested or state with specificity the grounds for objecting to the request, including the reasons.” Fed. R. Civ. P. 34(b)(2)(B).

Under Fed. R. Civ. P. 36, “[a] matter is admitted unless, within 30 days after being served, the party to whom the request is directed serves on the requesting party a written answer or objection addressed to the matter and signed by the party or its attorney.” Fed. R. Civ. P. 36(a)(3).

This motion to compel is filed pursuant to Fed. R. Civ. P. 37. Under Fed. R. Civ. P. 37(a)(3)(B):

[a] party seeking discovery may move for an order compelling an answer, designation, production, or inspection. This motion may be made if: . . . (iii) a

party fails to answer an interrogatory submitted under Rule 33; or (iv) a party fails to produce documents or fails to respond that inspection will be permitted—or fails to permit inspection—as requested under Rule 34.

III. DEFENDANTS ARE REQUIRED TO RESPOND TO DISCOVERY

Despite their clear obligations, Defendants have failed to respond at all to the FTC's discovery requests. Corporate Defendants and Relief Defendant, despite being served via their counsel at the time, Greenspoon Marder, have failed to respond to Interrogatories, and Defendant Green has failed to respond to Interrogatories, RFAs, and Document Requests.²

In addition to the Interrogatories, the documents requested are of critical importance to the case. The majority of Defendants' sales representatives operated out of locations in Jamaica. It is unclear whether Defendants have fulfilled their obligations to preserve documents and data at these locations at this time. Documents requested include sales scripts, call recordings, and correspondence with consumers, which will shed light on Defendants' representations to consumers.

In addition, due to communications issues with Defendants, it may be useful for the Court to require Defendant Green to comply with the Court's Order dated October 5, 2017 by submitting the Consent by Pro Se Litigant form attached to ECF No. 88.

IV. CONCLUSION

For the foregoing reasons, the FTC requests that this Court grant its motion to compel and order Defendants to provide complete responses, within three weeks of the date of its Order, to the FTC's Interrogatories and Document Requests.

² Because Green did not respond to the FTC's RFAs, they are deemed admitted. Fed. R. Civ. P. 36(a)(3) (“[a] matter is admitted unless, within 30 days after being served, the party to whom the request is directed serves on the requesting party a written answer or objection addressed to the matter and signed by the party or its attorney”).

CERTIFICATION OF GOOD FAITH ATTEMPT TO MEET AND CONFER

This motion is made following reasonable, good faith attempts to confer with Defendant Dave Green and resolve the discovery issues through the efforts described below, without any response from Defendant:

(1) FTC counsel sent an email to Defendant Green on Monday, December 11, 2017, at 5:28pm, regarding the expiration of deadlines for Defendant's responses to the FTC's discovery request, advising that the FTC may need to file a motion to compel discovery responses, and requesting that Green contact FTC counsel immediately via phone or e-mail;

(2) FTC counsel sent overnight mail via FedEx to Defendant Green's home address on Tuesday, December 12, 2017, which was delivered on Wednesday, December 13, 2017, at 9:25a.m., regarding the expiration of deadlines for Defendant's responses to the FTC's discovery request, advising that the FTC may need to file a motion to compel discovery responses, and requesting that Green contact FTC counsel immediately via phone or e-mail;

(3) FTC counsel called the phone number Defendant Green listed on his financial disclosure form on December 14, 2017 at 3:06pm, and left a voicemail regarding Green's discovery obligations, with a request that Green contact counsel immediately via phone.

FTC counsel received no response from Defendant Green to any of these communications.

Respectfully submitted,

Dated: December 19, 2017

/s/Miya Tandon
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FEDERAL TRADE COMMISSION

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed via ECF and served on Defendant Green via e-mail and overnight FedEx to Green's home address on December 19, 2017.

/s/ Miya Tandon

Miya Tandon