

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

FEDERAL TRADE COMMISSION,
and OFFICE OF THE ATTORNEY
GENERAL, STATE OF FLORIDA,
DEPARTMENT OF LEGAL AFFAIRS

CASE NO.: 6:20-cv-1192-WWB-DCI

Plaintiff,

v.

GDP NETWORK, LLC, G&G SUCCESS,
LLC, DOING BUSINESS AS YF
SOLUTION, LLC, G&N SQUARED, DOING
BUSINESS AS DYNAMIC SOLUTION GROUP,
LLC, GINO DE PAZ, GRACE DE PAZ and
SHABANA KHUBLAL

Defendants.

**DEFENDANT SHABANA KHUBLAL'S NOTICE OF DISPUTED
ISSUES OF MATERIAL FACT AND WITNESSES TO TESTIFY
PURSUANT TO THE COURT'S ORDER JULY 30, 2020 (DOC. 27)**

COMES NOW, The Defendant, SHABANA KHUBLAL, and files her Notice of Disputed Issues of material fact, Witness List and Length of Time for Hearing, pursuant to this Court's Order dated July 30, 2020 (Doc. 27), and states in support thereof:

DISPUTED ISSUED OF FACT:

DISPUTED ISSUE OF FACT NUMBER 1:

The TRO should never have been entered against the Defendants G&N Squared, LLC and Shabana Khublal because there was no probable cause to support the TRO.

Plaintiffs filed an Ex Parte Motion to for a Temporary Restraining Order, Asset Freeze and other Equitable Relief against six Defendants. In support of that Motion, Plaintiffs filed three volumes of exhibits, materials, evidence and a Declaration and Certification to the Court.

Plaintiffs' Complaint is generic as the individual Defendants. Each Defendant is alleged to have committed every act equally and there are no allegations singling out any one Defendant in particular. However, the three volumes of supporting evidence fail to show any wrongdoing on the part of at least two Defendants, G&N Squared, LLC and its half owner, Shabana Khublal. There are no consumer complaints, no taped recordings and/or transcripts of employees misrepresenting statements to consumers or FTC investigators and no evidence of otherwise wrongdoing against G&N Squared, LLC or Shabana Khublal in the supporting three volumes of evidence.

The FTC's Declaration and Certification states that there is evidence attached supporting the allegation that every Defendant has engaged in a "bogus credit card interest rate reduction service." However, the evidence in support of the Declaration and Certification does not hold true as to Defendants G&N Squared, LLC and its half owner, Shabana Khublal. There is no evidence of wrongdoing contained within Plaintiffs three volumes of exhibits, and supporting materials against either G&N Squared, LLC or Shabana Khublal. Additionally, there is no supporting evidence that G&N Squared, LLC operated as a common enterprise with either of the two other corporate defendants. There are no affidavits, transcripts or statements from any witness that G&N Squared, LLC shared office space, employees, common managers, common business functions, and/or comingled funds, or engaged in an "unholy alliance" with either of the other two corporate Defendants. Although Plaintiffs need not show every factor to prove a common enterprise, they do need to show that two companies "maintained an unholy alliance." *FTC v. Kennedy*, 574 F. Supp.2d 714, 722 (S.D. Tex. 2008) and cited by *FTC v. Pointbreak Media, LLC*, 376 F. Supp.3d 1257, 1270 (S.D. Fla. 2019).

"Where an injunction is sought pursuant to a statutory provision, the moving party must establish that (1) probable cause exists to believe that the statute in question is being violated, and

(2) there is some likelihood of future violations.” *FTC v. Check Investors, Inc.* 2003 U.S. Dist. LEXIS 26941 at *12 (D.N.J. 2003) (citing *U.S. v. Focht*, 882 F.2d 55, 57 (3d Cir 1989)). Because Federal Courts rely upon the FTC’s declarations and certifications to issue orders that affect company’s and individual’s rights, there is no wiggle room for inaccuracies on the part of the FTC. There either was evidence showing probable cause against G&N Squared, LLC attached to Plaintiffs’ Complaint or there was not. In fact, there was not.

DISPUTED ISSUE OF FACT NUMBER 2:

Defendant Shabana Khublal does not waive any possible 4th Amendment violations that occurred by the FTC and/or Florida Attorney General’s Office.

Although the Defendant cannot cite to any case law that would support a 4th Amendment, Exclusionary Rule argument in this civil injunction case, there is caselaw suggesting that the issue can be waived if not asserted. *FTC v. Credit Bureau Center, LLC*, 284 Supp.3d 907 (N.D. E. IL 2018). In the unlikely event that the 11th Circuit opens the door in the next year, Defendant Shabana Khublal objects to any evidence found by Plaintiff’s in their raid of G&N Squared, LLC on 4th Amendment grounds.

DISPUTED ISSUE OF FACT NUMBER 3:

The court should exclude Plaintiffs from using any materials found at G&N Squared, LLC after the TRO was Ordered.

The court has broad discretionary powers to fashion equitable relief against the parties. *FTC v. SlimAmerica, Inc.* 77 F.Supp.2d 1263 (S.D. Fla. 1999). Because the FTC was not accurate in its Declaration and Certification, and no probable cause existed to enter the TRO against G&N Squared, LLC, the court should exclude Plaintiffs from using any materials found when they searched the premises at G&N Squared LLC and/or any statements of Employees taken pursuant

to the Court's Order of July 10, 2020, against Defendant, Shabana Khublal.

DISPUTED ISSUE OF FACT NUMBER 4:

Even with the materials found at G&N Squared, LLC, Plaintiffs are not likely to succeed on the merits as they still have no evidence of wrongdoing on the part of G&N Squared, LLC.

Plaintiffs allegations are that all of the Defendants operated a fraudulent credit card interest rate reduction scheme and that all Defendants made fraudulent misrepresentations to consumers such as that they are affiliated with consumer's existing credit card company and promised to substantially and permanently reduce consumers credit card interest rates. After one year or so of investigating this case and of having now searched the premises of G&N Squared, LLC, Plaintiffs still have no affidavits, consumers statements and or witness statements that G&N Squared employees ever promised a consumer that they were going to substantially and permanently reduce a consumer's interest rate and/or that they were affiliated with the consumer's credit card company.

These FTC credit card reduction cases are generally fueled by consumer complaints and recorded statements and transcripts of a company's employees making fraudulent misrepresentations to either a consumer or an FTC investigator posing as a consumer. However, this case against G&N Squared, LLC contains none of this type of evidence. Plaintiffs have attached scripts found at the G&N Squared, LLC's premises (Contained within Doc. 35). Yet, there exists no evidence that any of these scripts were ever used by a G&N Squared, LLC employee. More telling is that not a single script attached states that the company is going to substantially and permanently reduce a consumer's credit card rate. There is no evidence as to this allegation against G&N Squared, LLC.

Only a few scripts have been identified that have any misleading information, and these

are all found within employees personal files. These are not scripts provided by the company or on company letterhead. And still, no evidence exists that such scripts were ever used on a consumer. Because no substantial evidence exists against G&N Squared, LLC, Plaintiffs are now trying to string together a case against a company that operated for two years without complaint out of picayune minutia.

One consumer Complaint does exist against G&N Squared, LLC at Doc. 35-7 by the Ohio Attorney General. In this case, a consumer owed one Credit Card debt of \$13,963.75 at 21.49 % interest and another Credit Card debt of \$4693.97 at 13.49% interest. The company was able to put both amounts owed by the consumer into a zero percent Credit Card with a life span of 56 months. The consumer's payments went from \$598 per month to \$374 per month at zero percent interest. That savings in monthly payments over 56 months equaled \$12,544 without computing the compound interest that would have accrued. The consumer's actual savings was much more, and the consumer still complained. The company refunded the fee and the consumer saved a lot of money at no expense to herself.

There remains no evidence that G&N Squared ever misled a consumer and the Plaintiffs cannot show that they are likely to succeed on the merits to justify a preliminary injunction against G&N Squared, LLC.

DISPUTED ISSUE OF FACT NUMBER 5:

There is no evidence that G&N Squared, LLC maintained an unholy alliance with either of the other two Defendant Corporations.

FTC v. Kennedy, 574 F. Supp.2d 714, 722 (S.D. Tex. 2008) and cited by *FTC v. Pointbreak Media, LLC*, 376 F. Supp.3d 1257, 1270 (S.D. Fla. 2019).

DISPUTED ISSUE OF FACT NUMBER 6:

Plaintiffs have no evidence that Defendant, Shabana Khublal, who resided in St. Croix during the two years of G&N Squared, LLC's existence knew of any wrongdoing.

Defendant has attached an Affidavit to her Response to the Court's Order to Show Cause (Doc. 21) stating that Defendant Grace DePaz ran the day to day operations of G&N Squared, LLC while Shabana Khublal resided in St. Croix, U.S. Virgin Islands. In Plaintiffs Response (Doc. 35), as the sole piece of evidence as to Shabana Khublal's knowledge of corporate wrongdoing, Plaintiffs have attached a written conversation they state that they found on Shabana Khublal's sister's phone (No Plaintiff employee or agent has had access to that phone) among an employee, Grace De Paz and Shabana Khublal in which a an inspector from the Department of Agriculture was to visit the busines and both Grace DePaz and Shabana Khubalal told the employee to make sure papers don't fall out of personnel files. The FTC takes this to be proof that G&N Squared, LLC has made material misrepresentations to consumers and that Shabana Khublal had knowledge of such misrepresentation. What it actually meant was that the owners of G&N Squared, LLC did not want the employees to put loose paper into files without putting a double hole punch at the top and fastening them into the file so that the company wouldn't appear sloppy to the inspector.

For a court to impose personal liability on an individual defendant, Plaintiffs must first show the corporation committed violations of those acts for which it is liable. *FTC v. Primary Grp., Inc.*, 713 F. Appx. 805 (11th Cir. 2017) and *FTC v. Pointbreak Media, LLC*, 376 F. Supp.3d 1257, 1270 (S.D. Fla. 2019). There is no evidence linking Defendant, Shabana Khublal, to any company that has done anything wrong. "Once corporate liability is established, Plaintiff must then show that the individual knew of the deceptive practices and either participated directly in those practices or had the authority to control them." *FTC v. IAB Marketing Associates, LP*, 746

F. 3d. 1228, 1233 (11th Cir. 2014). Plaintiffs have attached no affidavits, transcripts, consumer complaints, personal statements or other evidence showing that G&N Squared, LLC's half owner, Shabana Khublal, knew of any wrongdoing as to any Corporate Defendant.

For Plaintiffs to obtain injunctive relief against Defendant, Shabana Khublal, they must show that (1) they are likely to succeed on the merits, and (2) injunctive relief is in the public interest. *FTC v. IAB Marketing Associates, LP*, 746 F. 3d. 1228, 1232 (11th Cir. 2014).

As Plaintiffs have attached no evidence to their Complaint as to a) wrongdoing on the part of G&N Squared, LLC, b) a common enterprise with G&G Success, LLC, doing business as YF Solutions, LLC, or c) any knowledge of corporate wrongdoing against individual Defendant, Shabana Khublal, the argument cannot be made that Plaintiffs will likely succeed on the merits against individual Defendant, Shaban Khublal. If the case were to proceed to trial, Plaintiffs may or may not produce evidence against G&N Squared, LLC and/or Shabana Khublal. But at this time, as to a preliminary injunction, no such evidence exists to show that Plaintiffs are likely succeed on the merits.

As to whether an injunction against Defendant, Shabana Khublal, is in the public interest, because no consumer complaints have been shown against G&N Squared, LLC, the public gains no benefit as to an injunction being entered against its half owner, Shabana Khublal.

WITNESSES TO BE CALLED:

Defendant, Shabana Khublal.

TIME REQUESTED FOR THE HEARING:

Defendant, Shabana Khublal requests one hour for her portion of testimony and argument.

WHEREFORE, Defendant, Shabana Khublal, requests that this court not enter a preliminary injunction against Shabana Khublal and remove the asset freeze entered against her on July 10, 2020.

Respectfully submitted,

s/ Matthew A. Leibert
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Motion was furnished via Electronic Mail on August 6, 2020 to:

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s/ Matthew Leibert