

**UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

FEDERAL TRADE COMMISSION
and STATE OF GEORGIA,

Plaintiffs,

v.

LAPTOP & DESKTOP REPAIR, LLC,
a Nevada limited liability company, also
d/b/a cashforiphones.com,
cashforlaptops.com, ecyclebest.com,
smartphonetraders.com, sell-your-
cell.com; and VADIM OLEGOVICH
KRUCHININ, also a/k/a Vadim
Kruchin, David Kruchin, David Vadim
Kruchin, Dave Kruch, as the owner and
an officer of Defendant Laptop &
Desktop Repair, LLC,

Defendants.

Case No. 1:16-CV-3591-AT

**DEFAULT JUDGMENT AND ORDER FOR
PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF
AGAINST DEFENDANTS LAPTOP & DESKTOP REPAIR, LLC, AND
VADIM KRUCHININ**

On September 26, 2016, Plaintiffs Federal Trade Commission (“FTC”) and
the State of Georgia, Office of the Attorney General (“State of Georgia”), filed

their Complaint for Permanent Injunction and Other Equitable Relief (“Complaint”) in this matter pursuant to Sections 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b); and the Georgia Fair Business Practices Act (“FBPA”), O.C.G.A. §§ 10-1-390 through 10-1-408. Defendants Laptop & Desktop Repair, LLC (“LDR”), and Vadim Olegovich Kruchinin (“Kruchinin”) (collectively, “Defendants”) have failed to file a timely response to Plaintiffs’ Complaint, as the Clerk of Court has noted by entering defaults against each. The Plaintiffs have therefore filed their Motion for Default Judgment and order for permanent injunction and other equitable relief as to Defendants (“Plaintiffs’ Motion”).

The Court has considered the Plaintiffs’ Motion, as well as the entire record in this matter, and hereby **GRANTS** Plaintiffs’ Motion. **IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** as follows:

FINDINGS

1. This Court has jurisdiction over the subject matter of this case and personal jurisdiction over the parties hereto pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a) and 53(b). Pursuant to 28 U.S.C. § 1367, this Court has jurisdiction over the subject matter of the state law claims asserted by the State of Georgia because those claims are so related to the claims

brought under federal law that they form part of the same case or controversy, and because those claims arise out of the same transactions or occurrences as the claims brought pursuant to 15 U.S.C. §§ 45(a) and 53(b).

2. The Plaintiffs' Complaint states claims upon which relief may be granted under Sections 5(a) the FTC Act, 15 U.S.C. § 45(a) and FBPA, § 10-1-393(a);

3. Venue in the United States District Court for the Northern District of Georgia is proper pursuant to 28 U.S.C. § 1391(b)(2) and 15 U.S.C. § 53(b).

4. Defendants have maintained a substantial course of trade in or affecting commerce, as "commerce" is defined by Section 4 of the FTC Act, 15 U.S.C. § 44, and as "trade" and "commerce" are defined in Georgia Code Section 10-1-392 (28).

5. Defendants were properly served with process as required by Fed. R. Civ. P. 4, and failed to file any responsive pleading as required by Fed. R. Civ. P. 12(a). The Clerk properly entered an Entry of Default as to Defendants on November 15, 2016.

6. The factual allegations in the Plaintiffs' Complaint are taken as true against Defendants. Those allegations and the evidence supporting them establish

that Defendants violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) and Section 393(a) of the FBPA, O.C.G.A. § 10-1-393(a).

7. In connection with their marketing, promotion, offering to purchase, or purchasing of Used Electronic Devices from consumers, Defendants have violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) by falsely representing to consumers, directly or indirectly, expressly or by implication, that LDR pays the consumers the Quote or an amount close to the Quote, for their Used Electronic Devices.

8. In connection with the marketing, promotion, offering to purchase, or purchasing of Used Electronic Devices from consumers, Defendants have violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), by falsely representing to consumers, directly or indirectly, expressly or by implication, that during the Rejection Period consumers would be allowed by the Company to request the return of their devices, and if they did so, LDR would return their devices to them.

9. Defendants' acts and practices violate O.C.G.A. § 10-1-393(a), which prohibits unfair or deceptive acts or practices in the conduct of trade or commerce, as Defendants misrepresented the amounts that they would pay for consumers' devices. Consumers reasonably relied upon Defendants' initial offers in selecting a buyer for their devices. Had they known the actual or approximate dollar

amounts Defendants would pay for their devices, consumers would not have participated in those transactions.

10. The Court further finds that Defendants have also violated O.C.G.A. §10-1-393(a) by misrepresenting their rejection and return policies and procedures. Consumers reasonably relied upon Defendants' misrepresentations in selecting a buyer for their devices. Had they known the actual rejection and return policies and procedures, consumers would not have participated in those transactions.

11. Defendant Kruchinin is individually liable for violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) and Section 393(a) of the FBPA, O.C.G.A. § 10-1-393(a). Defendant Kruchinin is the owner, President/CEO, and managing member of LDR. At all times material to Plaintiffs' Complaint, acting alone or in concert with others, he formulated, directed, controlled, had authority to control, or participated in the acts and practices of LDR, including the acts and practices alleged in the Plaintiffs' Complaint.

12. There is a substantial likelihood that Defendants will engage in the same or similar activities as alleged in the Complaint unless they are permanently enjoined from such acts and practices.

13. It is proper in this case to enter a permanent injunction to prevent a recurrence of Defendants' violations of the FTC Act, 15 U.S.C. § 45 and the

FBPA, O.C.G.A. § 10-1-393(a), and to enter equitable monetary relief against Defendants.

14. Plaintiffs have established through LDR's 2011 through 2016 tax returns and other evidence that Defendants' net unjust gains from the Defendants' violations of Section 5(a) of FTC Act, 15 U.S.C. § 45(a) and Section 393(a) of the FBPA, § 10-1-393(a) found herein amount to at least \$42,427,260.57.

15. Plaintiffs are therefore entitled to equitable monetary relief against Defendants in the amount of \$42,427,260.57, for which Defendants are jointly and severally liable.

16. Entry of this Order is in the public interest.

DEFINITIONS

For purposes of this Order, the following definitions apply:

A. “**Defendants**” means Defendant Kruchinin and the Corporate Defendant, individually, or collectively.

B. “**Corporate Defendant**” means Laptop & Desktop Repair, LLC, also d/b/a cashforiphones.com, cashforlaptops.com, ecyclebest.com, smartphonetraders.com, and sell-your-cell.com and its successors and assigns.

C. **“Defendant Kruchinin”** means Vadim Olegovich Kruchinin, also known as Vadim Kruchin, David Kruchin, David Vadim Kruchin, and Dave Kruch.

D. **“LDR”** means Laptop & Desktop Repair, LLC.

E. **“Person”** means an individual, group, unincorporated association, limited or general partnership, corporation, or entity.

F. **“Quote”** means the purchase quote Defendants provided to consumers on their various websites, after the consumer inputted the type of Used Electronic Device and answered Defendants’ questions about its condition, such as whether the Used Electronic Device had a cracked screen, a bad battery, or would not power on.

G. **“Used Electronic Device(s)”** means used smartphones, laptops, desktops, tablets, and parts thereof.

I. BAN RELATED TO THE PURCHASE OF USED ELECTRONIC DEVICES FROM CONSUMERS.

IT IS ORDERED that Defendants are permanently restrained and enjoined from advertising, marketing, and promoting their willingness to purchase, offering to purchase, or purchasing or assisting others in advertising, marketing, and promoting their willingness to purchase, offering to purchase, or purchasing any Used Electronic Devices from individuals.

II. PROHIBITION AGAINST MISREPRESENTATIONS

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, in connection with advertising, marketing, and promoting their willingness to purchase any good or service, offering to purchase or purchasing any good or service, or promoting or offering for sale any good or service, are permanently restrained and enjoined from misrepresenting or assisting others in misrepresenting, expressly or by implication:

- A. The price that they will pay for used products;
- B. The availability of refunds or of opportunities to rescind sales or purchases;

- C. The time within which refunds will be provided or during which rescission of sales or purchases is permitted;
- D. The procedures to request and obtain refunds or rescissions; and
- E. Any other material fact concerning any good or service, such as: the total costs; any material restrictions, limitations, or conditions; or any material aspect of its performance, efficacy, nature, or central characteristics.

III. MONETARY JUDGMENT

IT IS FURTHER ORDERED THAT:

A. Judgment in the amount of Forty-Two Million Four Hundred Twenty Seven Thousand Two Hundred and Sixty Dollars and Fifty Seven Cents (\$42,427,260.57) is entered in favor of the Plaintiffs against Defendants, jointly and severally, as equitable monetary relief.

B. Defendants are ordered to pay to Plaintiffs Forty-Two Million Four Hundred Twenty Seven Thousand Two Hundred and Sixty Dollars and Fifty Seven Cents (\$42,427,260.57). Such payment must be made within 7 days of entry of this Order by electronic fund transfer in accordance with instructions provided by a representative of the Plaintiffs.

C. All monies paid to Plaintiffs pursuant to this Order may be deposited into a fund administered by the Plaintiff Federal Trade Commission or its designee

to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. If Plaintiffs decide that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, Plaintiffs may apply any remaining money for such other equitable relief (including consumer information remedies) as they determine to be reasonably related to Defendants' practices alleged in the Complaint. All funds not used for the equitable relief described above in this subsection ("remaining funds") are to be divided equally between the Commission and the State of Georgia, with half to be deposited to the U.S. Treasury as disgorgement and half to be deposited to the State Treasury as attorney's fees and costs of ongoing monitoring and enforcement.

D. Defendants have no right to challenge any actions Plaintiffs or their representatives may take pursuant to this subsection.

IV. 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, are permanently restrained and enjoined from, directly or indirectly:

A. Failing to provide sufficient customer information to enable Plaintiffs to efficiently administer consumer redress. If a representative of either Plaintiff requests in writing any information related to redress, Defendants must provide it, in the form prescribed by that Plaintiff, within 14 days;

B. 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 customer's account (including a credit card, bank account, or other financial account) that Defendants obtained prior to entry of this Order in connection with the marketing, promotion, offering to purchase, or purchasing of Used Electronic Devices; and

C. Failing to destroy such customer information in all forms in their possession, custody, or control within 30 days after receipt of written direction to do so from a representative of Plaintiffs.

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 law, regulation, or court order.

V. RECEIVERSHIP TERMINATION

IT IS FURTHER ORDERED that the Receiver must complete all duties within 120 days after entry of this Order, but any party or the Receiver may request that the Court extend that Receiver's term for good cause.

VI. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendants obtain acknowledgments of receipt of this Order:

A. Each Defendant, within 7 days of entry of this Order, must submit to Plaintiffs an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For 5 years after entry of this Order, each Defendant, for any business that each individually or collectively with any other Defendant, is the majority owner or controls directly or indirectly, must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within 7

days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

From each individual or entity to which a Defendant delivered a copy of this Order, that Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

VII. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that the Defendants make timely submissions to Plaintiffs:

A. One year after entry of this Order, Defendants must submit a compliance report, sworn under penalty of perjury:

1. Each Defendant must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission and State of Georgia may use to communicate with the Defendant; (b) identify all of Defendants' businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant (which Defendant must describe if he knows or should know due to his involvement); (d) describe 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 Plaintiffs.

2. Additionally, Defendant Kruchinin 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 Kruchinin performs services whether as an employee or otherwise and any entity which he has any ownership interest; and (c) describe in detail Defendant Kruchinin's 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 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 of any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

2. Additionally, Defendant Kruchinin must report any change in: (a) name, including aliases or fictitious names, 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 Plaintiffs notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against that Defendant within 14 days of its filing.

D. Any submission to Plaintiffs required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by Plaintiffs’ representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by 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. Laptop & Desktop Repair, LLC, X 1523239. All submissions to the State of Georgia pursuant to this Order must be emailed to jkneidel@law.ga.gov or sent to: Jacquelyn L. Kneidel, Office of The Attorney General, Consumer Protection Unit, 2 Martin Luther King, Jr. Dr., Suite 356, East Tower, Atlanta, Georgia 30334.

VIII. RECORDKEEPING

IT IS FURTHER ORDERED that Defendants must create certain records for 20 years after entry of this Order, and retain each such record for 5 years. Specifically, Corporate Defendant, and Defendant Kruchinin, for any business that such Defendant, individually or collectively with any other Defendant, is a majority owner or controls directly or indirectly, 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 name; addresses; telephone numbers; job title or position; dates of 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 Plaintiffs; and

E. a copy of each unique advertisement or other marketing material.

IX. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants' compliance with this Order:

A. Within 14 days of receipt of a written request from a representative of either Plaintiff, each Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; and appear for depositions; and produce documents for inspection and copying. Plaintiffs are 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, Plaintiffs are authorized to communicate directly with each Defendant. Defendant must permit representatives of Plaintiffs 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. Plaintiffs may use all other lawful means, including posing, through their 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 process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

D. Upon written request from a representative of the Commission or the State of Georgia, any consumer reporting agency must furnish consumer reports concerning Defendant Kruchinin, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. §1681b(a)(1).

X. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

**SO ORDERED this 19th day of May _____,
2017.**



AMY TOTENBERG
UNITED STATES DISTRICT JUDGE