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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FEDERAL TRADE COMMISSION,

Plaintiff,

vs.

SEQUOIA ONE, LLC, a Wyoming limited liability company, GEN X MARKETING GROUP, LLC, a Florida limited liability company, JASON A. KOTZKER, THERESA D. BARTHOLOMEW, JOHN E. BARTHOLOMEW, JR., AND PAUL T. MCDONNELL,

Defendants.

CASE NO. 2:15-cv-01512-JCM-CWH

ANSWER OF DEFENDANT KOTZKER TO “COMPLAINT FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF” FILED ON AUGUST 7, 2015

DEMAND FOR JURY TRIAL

Defendant Jason A. Kotzker (hereinafter “Kotzker”), in accordance with the “Order on Stipulation for Extension of Time to File Answer (Third Request)” (Doc. No. 33), hereby responds to and/or answers the Federal Trade Commission’s (hereinafter “FTC”) “Complaint for Permanent Injunction and Other Equitable Relief” filed on August 7, 2015 (Doc. No. 1) (hereinafter “Complaint”) as follows:

First, in this Answer and each response that follows, Kotzker asserts his Fifth Amendment Privilege against self-incrimination to the fullest extent permitted by law.

Second, for ease of reference only, Kotzker will utilize the same captions set forth in the Complaint without admitting the validity or accuracy of said captions.

**Defendants Sold Consumer Payday Loan Applications to Non-Lenders,
Including Ideal Financial**

19. In response to Paragraph 19 of the Complaint, Kotzker asserts his Fifth Amendment Privilege against self-incrimination to the fullest extent permitted by law.

20. In response to Paragraph 20 of the Complaint, Kotzker asserts his Fifth Amendment Privilege against self-incrimination to the fullest extent permitted by law.

21. In response to Paragraph 21 of the Complaint, Kotzker asserts his Fifth Amendment Privilege against self-incrimination to the fullest extent permitted by law.

**Consumer Injury Caused by Defendants' Sale of Consumer Payday Loan Applications to
Ideal Financial**

22. In response to Paragraph 22 of the Complaint, Kotzker asserts his Fifth Amendment Privilege against self-incrimination to the fullest extent permitted by law.

23. Answering Paragraph 23 of the Complaint, Kotzker is without sufficient knowledge or information to form a belief as to the truth of the allegations contained in said paragraph, and on the basis denies each and every allegation contained therein.

24. In response to Paragraph 24 of the Complaint, Kotzker asserts his Fifth Amendment Privilege against self-incrimination to the fullest extent permitted by law.

**Defendants Knew or Had Reason to Believe that Ideal Financial was Using Consumer
Information to Engage in Unauthorized Charges**

25. In response to Paragraph 25 of the Complaint, Kotzker asserts his Fifth Amendment Privilege against self-incrimination to the fullest extent permitted by law.

26. In response to Paragraph 26 of the Complaint, Kotzker asserts his Fifth Amendment Privilege against self-incrimination to the fullest extent permitted by law.

27. In response to Paragraph 27 of the Complaint, Kotzker asserts his Fifth Amendment Privilege against self-incrimination to the fullest extent permitted by law.

28. In response to Paragraph 28 of the Complaint, Kotzker asserts his Fifth Amendment Privilege against self-incrimination to the fullest extent permitted by law.

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THIS COURT'S POWER TO GRANT RELIEF

37. The allegations contained in Paragraph 37 of the Complaint call for legal conclusions, and therefore no response is required. To the extent a response is required, as to all allegations contained therein, Kotzker asserts his Fifth Amendment Privilege against self-incrimination to the fullest extent permitted by law.

PRAYER FOR RELIEF

In response to the Prayer for Relief of the Complaint, Kotzker asserts his Fifth Amendment Privilege against self-incrimination to the fullest extent permitted by law.

AFFIRMATIVE DEFENSES

Only to the extent Kotzker can do so without waiving his Fifth Amendment Privilege against self-incrimination as asserted herein, Kotzker asserts the following affirmative defenses:

**FIRST AFFIRMATIVE DEFENSE
(Statute of Limitations)**

The FTC's claims against Kotzker are barred by the applicable statutes of limitations, including, but not limited to, Section 19(d) of the FTC Act, 15 U.S.C. § 57b(d).

**SECOND AFFIRMATIVE DEFENSE
(Failure to State Claim)**

The Complaint fails to state a claim upon which relief can be granted against Kotzker.

**THIRD AFFIRMATIVE DEFENSE
(Failure to Plead With Particularity)**

The FTC has failed to assert its claims and causes of action with particularity.

**FOURTH AFFIRMATIVE DEFENSE
(Laches)**

The FTC's claims are barred by the doctrine of laches.

**FIFTH AFFIRMATIVE DEFENSE
(Waiver)**

The FTC's claims are barred by the equitable doctrine of waiver.

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**SIXTH AFFIRMATIVE DEFENSE
(Reservation)**

In the event further investigation or discovery reveals the applicability of any other affirmative defenses, Kotzker reserves the right to assert any such defenses.

WHEREFORE, Kotzker prays for judgment against the FTC as follows:

1. That the FTC take nothing by way of its Complaint, that judgment be rendered in favor of Kotzker.

2. That the Court dismiss with prejudice the Complaint and each purported cause of action therein against Kotzker.

3. That Kotzker be awarded his costs of suit, including attorney's fees.

4. For such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Defendant Kotzker hereby demands a trial by jury.

Respectfully submitted,

February 5, 2016

DATE

/s/ Jeffrey B. Setness

JEFFREY B. SETNESS

Nevada Bar No. 2820

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CERTIFICATE OF SERVICE

In accordance with the Federal Rules of Civil Procedure and Rules 5-1 and 5-3 of the Local Rules of Practice of the United States District Court for the District of Nevada, I certify that I am an employee of FABIAN VANCOTT and that on this 5th day of February, 2016, I did cause a true copy of:

ANSWER OF DEFENDANT KOTZKER TO “COMPLAINT FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF” FILED ON AUGUST 7, 2015

to be served via electronic service by the U.S. District Court CM/ECF system to the parties on the Electronic Filing System in this action.

By: /s/ Sara M. Cameron

An Employee of
FABIAN VANCOTT