

FTC, Fla. Get \$5M In Debt-Relief Telemarketing Scam Deal

By Dani Kass

Law360, New York (September 15, 2016, 2:19 PM EDT) -- The Federal Trade Commission and state of Florida will likely be collecting about \$5 million from two companies and several individuals accused of running or assisting a multimillion-dollar, nationwide debt-relief telemarketing scheme, according to proposed settlements filed Wednesday in Florida federal court.

E.M. Systems & Services LLC, which is accused of running the alleged scheme, was hit with a \$12.4 million judgment, but that will be suspended after the company and its executives turn over an undisclosed amount of assets. Payment processing company CardReady LLC agreed to the same judgement and all but \$1.8 million is suspended.

CardReady executive Andrew S. Padnick agreed to a judgment of around \$440,000, but will pay just under \$6,000 while the rest is suspended. Also Wednesday, the FTC and Florida's attorney general's office asked for a \$2.6 million default judgment against telemarketer Kenneth B. Sallies, who has yet to respond to the suit.

Each of the settling plaintiffs, none of whom admitted liability, will also be placed under a permanent injunction. The injunctions vary, but largely include barring them from a variety of practices including credit card laundering, selling or marketing debt relief services and otherwise violating or helping others violate telemarketing laws.

The suit had claimed violations of the FTC's Telemarketing Sales Rule and the Florida Deceptive and Unfair Trade Practices Act. The commissioners approved the settlement 3-0, said Robert D. Eckard of Robert Eckard & Associates PA, who represented the E.M. Systems defendants.

According to the June 2015 complaint, the scam was carried out through multiple phony business names and websites, with the perpetrators cold-calling consumers with credit card debt and making false promises to help them save thousands of dollars by reducing their credit card interest rates in exchange for up-front payments, typically ranging from \$695 to \$1,495.

The scammers allegedly deceived consumers by identifying themselves as "card services," "credit services" or by their phony business names; claimed they had information on the consumers' credit card debt; and claimed they had business relationships with the consumers' lenders or card providers.

Consumers' cards were billed during the calls, with the caller making specific promises such as a 6 percent lower interest rate and \$5,000 in savings within 90 days. Instead, those results never materialized and the consumers ended up even further in debt, prosecutors said.

The complaint first named Steven D. Short and his wife, Karissa L. Dyar, as defendants, as well as their companies E.M. Systems, Administrative Management & Design LLC, Empirical Data Group Technologies LLC, Epiphany Management Systems LLC and KLS Industries LLC, doing business as Satisfied Services Solutions LLC. It also named Christopher C. Miles and his telemarketing company, One Easy Solution LLC.

Wednesday's proposed settlement would take care of Short and Dyar and their companies. Eckard said the assets they've handed over include Rolex watches, Tiffany jewelry, diamond earrings, other jewelry, artwork, vehicles and cash, which he estimated to be worth about \$100,000 so far. He said further liquidation is ongoing.

"Given my past experience with FTC cases and the potential consequences that can result with seizure of assets and disgorgement, I am satisfied that this was a fair and just outcome for my clients," Eckard said.

CardReady and its executives Brandon A. Becker, James F. Berland and Padnick had been added in a December **amended complaint**. Becker and Berland are settling the case under the larger CardReady settlement, whereas Padnick's settlement is separate. That amended complaint also named Sallies and telemarketers Jason E. Gagnon and Matthew B. Thomas.

Edward A. Marshall of Arnall Golden Gregory LLP, who represented CardReady, said "the existing legal landscape for those on the acquiring side of the payments industry is daunting" as companies are held responsible for employee actions, even when those actions go against company policy.

"In light of those practical realities, CardReady and its principals, while admitting no wrongdoing, made the difficult decision to contain their legal exposure through a settlement that allowed them move forward with a new venture," Marshall said in an email. "The legal negotiations were hard fought, and our clients look forward to putting this dispute behind them."

The FTC and counsel for Padnick declined to comment Thursday. Representatives for Florida didn't immediately respond to request for comment.

The FTC is represented by its own Nicholas M. May and Anna M. Burns. Florida is represented by Patricia A. Conners, Julia Harris and Jennifer Hayes Pinder of the state attorney general's office.

The E.M. Systems defendants are represented by Robert D. Eckard of Robert Eckard & Associates PA. CardReady, Becker and Berland are represented by Edward A. Marshall and Theresa Y. Kananen of Arnall Golden Gregory LLP. Padnick is represented by Edward F. Glynn Jr. of Locke Lord LLP. Counsel information for Sallies was not immediately available.

The case is Federal Trade Commission et al. v. E.M. Systems & Services LLC et al., case number 8:15-cv-01417, in the U.S. District Court for the Middle District of Florida.

--Additional reporting by Nathan Hale. Editing by Kelly Duncan.

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