IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FEDERAL TRADE COMMISSION, Plaintiff, v. MONEYGRAM INTERNATIONAL, INC., Defendant.	)	Civil Action No. 09-cv-6576

FTC'S UNOPPOSED MOTION FOR ENTRY OF STIPULATED ORDER FOR COMPENSATORY RELIEF AND MODIFIED ORDER FOR PERMANENT INJUNCTION

Plaintiff, the Federal Trade Commission ("FTC"), moves this Court pursuant to Local Rule 37.1, Part XII of the Stipulated Order for Permanent Injunction and Final Judgment entered by the Court in this matter on October 21, 2009 ("2009 Order" or "Order"), and the Court's inherent authority, to enter the attached Stipulated Order for Compensatory Relief and Modified Order for Permanent Injunction. Defendant, MoneyGram International, Inc. ("MoneyGram"), has agreed to the entry of the Stipulated Order for Compensatory Relief and Modified Order for Permanent Injunction, and has represented to the FTC that it does not oppose this motion. In support of the motion, the FTC states the following:[1]

I. BACKGROUND

MoneyGram offers money transfer services to consumers worldwide through a network of approximately 350,000 agent locations in more than 200 countries and territories. Consumers

[1] Because the FTC and MoneyGram have reached a resolution of the allegations in this motion, the FTC is not filing any affidavit or evidence in support of this motion. MoneyGram neither admits nor denies any of the FTC's allegations set forth in this motion.

wishing to send funds using MoneyGram's money transfer system may initiate a transaction in person, online, through a mobile device, or at a self-service kiosk located at a MoneyGram agent location. For many years, money transfers have been a preferred method of payment for fraudsters because the money sent through MoneyGram's system can be picked up quickly at many agent locations around the world, and consumers typically are unable to get their money back once the funds have been paid out. In addition, for many years, the perpetrators often have been afforded anonymity when receiving money though MoneyGram, including, in some instances, by having the ability to pick up transfers without presenting identifications ("IDs") or by using fake names, addresses, and IDs.

On October 21, 2009, the Honorable John F. Grady entered the 2009 Order (Dkt. No. 13) against MoneyGram, which resolved the allegations in the FTC's Complaint (Dkt. No. 1). The Complaint alleged that, between at least 2004 and 2008, MoneyGram had assisted fraudulent telemarketers by failing to take timely, appropriate, and effective measures to address fraud-induced money transfers in its system. The 2009 Order prohibits MoneyGram from, among other things, failing to: establish, implement, and maintain a comprehensive anti-fraud program that is reasonably designed to protect U.S. and Canadian consumers (Section I); conduct thorough due diligence on prospective agents and ensure its written agreements require agents to have effective anti-fraud policies and procedures in place (Section II); adequately monitor its agents by, among other things, providing appropriate and ongoing training, recording all complaints, reviewing transaction activity, investigating agents, taking disciplinary action against problematic agents, and ensuring its agents are aware of their obligations to detect and prevent fraud and to comply with MoneyGram's policies and procedures (Section III); and share consumer complaint information with the FTC for inclusion in the Consumer Sentinel Network, a database of consumer fraud complaints maintained by the FTC and available to law enforcement (Section IV).[2]

As a result of the 2009 Order, MoneyGram has made some enhancements to its agent oversight and anti-fraud program, but as this motion demonstrates, it has not been in full compliance with the terms of the 2009 Order. By agreeing to a Stipulated Order for Compensatory Relief and Modified Order for Permanent Injunction, MoneyGram has committed to address deficiencies in its anti-fraud program, as well as to improve and expand its program to protect consumers worldwide from consumer fraud involving its money transfer system.

II. MONEYGRAM FAILED TO FULLY COMPLY WITH THE TERMS OF THE 2009 ORDER

For years, MoneyGram failed to take all of the steps necessary—and required by the 2009 Order—to detect and prevent consumer fraud over its money transfer system.[3] As a result, MoneyGram's system continued to be used by fraudsters around the world to obtain money from their victims. In some cases, MoneyGram failed to adopt and implement anti-fraud policies and procedures consistent with the Order, while in other cases, it failed to properly train its agents, to promptly investigate agents that were the subject of fraud complaints, to take the required disciplinary actions against all of the problematic agents, and to conduct the required background checks to avoid installing agents that might become involved or complicit in frauds. It also

[2] In November 2012, MoneyGram also entered into a five-year Deferred Prosecution Agreement ("DPA") with the Department of Justice, in which MoneyGram admitted that it had criminally aided and abetted wire fraud and failed to maintain an effective Anti-Money Laundering ("AML") program relating to consumer fraud from 2004 through 2009. As part of the DPA, MoneyGram also agreed to implement enhanced compliance obligations with respect to its anti-fraud and AML programs. The five-year term of the DPA was scheduled to expire in November 2017, but it has since been extended multiple times. *United States v. MoneyGram Int'l Inc*., No. 12-CR-00291 (M.D. Pa. Nov. 9, 2012).

[3] MoneyGram's anti-fraud program is designed, implemented, and administered primarily within the United States.

failed to record, as well as to share with Consumer Sentinel, all consumer complaints it received about fraud-induced money transfers. Significantly, moreover, although MoneyGram implemented a new interdiction system in April 2015 that was supposed to enhance its ability to automatically hold and prevent the payout of money transfers that likely were fraud-induced, this interdiction system failed to function properly from approximately April 2015 through October 2016, thereby failing to prevent millions of dollars in fraud-induced money transfers.

Each of these violations of the 2009 Order is detailed below. Together, the violations caused significant consumer losses.

A. MoneyGram Failed to Promptly Investigate and then Discipline Agent Locations with High Levels of Consumer Fraud

In numerous instances, MoneyGram failed to promptly investigate and take the required disciplinary actions against some of its agent locations—especially large chain agents—that exhibited high levels of consumer fraud.

1. MoneyGram's Failure to Promptly Investigate Certain Agents

The 2009 Order requires MoneyGram to conduct timely consumer fraud investigations of any agent location that meets one of the following thresholds: (1) has received two or more fraud complaints in a thirty-day period; (2) has fraud complaints amounting to five percent or more of the location's total received transactions, in numbers or dollars, calculated on a monthly basis; or (3) has displayed any unusual or suspicious money transfer activity that cannot reasonably be explained or justified. (Section III.B.3-4.) MoneyGram is required to complete an investigation within 14 or 30 days, depending upon which threshold triggered the investigation. If the investigation is not completed within the required time, then MoneyGram must suspend the agent location until the investigation is completed.

In some instances, MoneyGram failed to conduct the reviews required by the 2009 Order of agent locations that satisfied these thresholds, or to suspend agents when investigations were not completed on time. For example, from approximately March 2015 until at least March 2016, MoneyGram did not conduct the required individual reviews of agent locations for certain large chain agents that met the review thresholds and did not even consider whether any type of disciplinary action was necessary at those locations. By failing to conduct individual reviews of all locations meeting the Order's thresholds, MoneyGram violated Section III.B of the Order.

2. MoneyGram's Failure to Promptly Discipline Certain Agents

In many instances, MoneyGram also failed to promptly discipline certain agent locations as required by the terms of the 2009 Order. This was especially the case with individual locations of large chain agents.

Under the Order, MoneyGram is required to terminate, suspend, or restrict locations that have failed to take appropriate steps to prevent fraud-induced money transfers. It also is required to terminate locations that "may be complicit" in fraud-induced money transfers. (Section III.B.5.b.) Nevertheless, MoneyGram failed to promptly terminate, suspend, or restrict certain agent locations that had high levels of fraud and that had failed to take appropriate steps to prevent fraud, including recording required information (such as consumers' IDs and biographical information), training and overseeing employees, monitoring money transfer activity, and refusing to pay out suspicious transfers that likely were fraud-induced. In some instances, MoneyGram had agent locations that likely were complicit in frauds, but MoneyGram did not adequately comply with the Order's prompt termination requirement.

Although MoneyGram often took disciplinary actions, including terminations, against lower volume, "mom and pop" agents with high fraud levels, it treated large chain agents differently and sometimes failed to take the required disciplinary actions against certain chain agent locations that had high levels of fraudulent activity. For example, MoneyGram did not begin placing any restrictions on locations of one large chain agent until approximately mid-2013, despite the following facts: (1) the chain was the subject of substantially more consumer fraud complaints than any other MoneyGram agent worldwide, including other high-volume agents; (2) the chain had locations with high levels of fraud and suspicious activities, including some locations with fraud rates of more than 25 percent, or even 50 percent, of their money transfer activity—when taking into account confirmed and linked fraud; and (3) the chain had failed to take appropriate steps to prevent fraud at its locations. Even by mid-2013, MoneyGram had only established a pilot program for restricting that chain's locations. In addition, before approximately May 2017, MoneyGram did not suspend any locations of that particular chain agent, even where that agent's locations had high levels of fraud and failed to provide the required consumer fraud training to their employees, or otherwise demonstrated a pattern of non-compliance with MoneyGram's policies and procedures.

Information contained in MoneyGram's own records demonstrates that it has been aware for years of high levels of fraud and suspicious activities involving particular agents—including large chain agents—yet it sometimes failed to take prompt disciplinary action against those agents as required by the 2009 Order. These records demonstrate a range of suspicious activities, including, but not limited to, the following: (1) high numbers and patterns of complaints; (2) spikes in the number of money transfers received; (3) money transfer amounts that exceed the average transfer amount; (4) data integrity issues (issues relating to the recording of ID numbers, dates of birth, or other information about recipients); (5) payouts within minutes after the money transfers were sent; (6) same ID or addresses used by multiple receivers;

(7) flipping (shortly after receiving funds, a large portion of the money is sent to another recipient); (8) structuring of transactions; and (9) substantial transfers to high-risk countries known for fraud. Under the terms of the 2009 Order, these types of suspicious activities triggered a duty by MoneyGram to investigate and, depending on the findings, impose some type of disciplinary action.

In fact, MoneyGram established different standards for disciplinary actions involving large chain agents, even though that practice finds no support in the terms of the 2009 Order. As noted, the 2009 Order requires the termination of any agent location that "may be complicit" in fraud-induced money transfers. Consistent with that standard, MoneyGram's "Global Anti-Fraud Policy and Response Program" generally provides that if MoneyGram finds that the agent "may be complicit," it must be terminated. However, with chain agents, which MoneyGram has defined as agents with ten or more locations, MoneyGram's policy only requires termination "*if the Chain Agent itself is complicit*" in the fraud. (Emphasis added.) That is a different standard than the one in Section III of the Order. The Order defines a "MoneyGram Agent" as "any person authorized to sell money transfer services marketed by" MoneyGram, and each location constitutes a separate agent for purposes of the Order. (Defn. A.) As a result, the Order requires that the complicity assessment be made separately with respect to each chain agent location. By failing to do that, MoneyGram violated the terms of the Order. In some cases, moreover, although MoneyGram's contracts with large chain agents typically provide MoneyGram with the authority to suspend money transfer services "until remedial controls have been implemented" at their locations, they do not provide MoneyGram with the authority to terminate agent locations as a remedial measure, even though the Order requires MoneyGram to terminate any location that may be complicit in fraud.

The written guidelines used by MoneyGram's Financial Intelligence Unit ("FIU"), which is the primary unit responsible for conducting consumer fraud investigations and taking (or recommending) disciplinary actions against agents in accordance with the 2009 Order, also demonstrate that MoneyGram established standards for disciplinary actions that did not comply with the 2009 Order's requirements. These guidelines, which were dated April 11, 2013, required agents to have unreasonably high fraud rates before they would be subject to suspension or termination, and also set a higher standard for terminations due to complicity.

For example, these FIU guidelines provided for suspension of an agent location when fraud activity represents "*greater than 75%*" of the location's transactions, and termination of an agent location when fraud activity represents "*greater than 90%*" of the transactions. (Emphasis added.) These guidelines do not comply with the 2009 Order, which requires MoneyGram to terminate, suspend, or restrict agents that have not been "taking appropriate steps to prevent" fraud-induced money transfers. That standard is satisfied long before the point at which *greater than 75 percent* of an agent's transactions are determined to be for fraud. The guidelines further indicate that terminations are appropriate where there is "[a] clear indication of Agent complicity." The standard for terminating agent locations in the 2009 Order, however, requires termination when there may be complicity at an agent location, long before fraud activity reaches *greater than 90 percent* or there otherwise is "a clear indication of Agent complicity."

B. MoneyGram Failed to Properly Monitor Agents' Money Transfer Activity and Maintain Appropriate Technical Safeguards to Prevent Fraud

The 2009 Order requires MoneyGram to implement a comprehensive anti-fraud program that includes appropriate and adequate monitoring of agent activity related to the prevention of fraud-induced money transfers. (Section I.D.4.) Despite the Order's requirements, MoneyGram failed to adequately monitor and prevent the money transfer activity of recipients of fraud-induced money transfers, including recipients who had been the subject of one or more consumer fraud complaints, or who otherwise had engaged in suspicious activity or activity linked to fraud-induced money transfers. In some cases, these recipients were members of fraud rings who conducted numerous suspicious transfers at one or more agent locations within a particular geographic area. Their money transfers also exhibited other suspicious characteristics indicative of fraud, such as multiple transfers at the same or different locations on the same day within a short period of time, large-dollar amounts or structured money transfers, and suspicious biographical information, such as shared or fake addresses or IDs. By adequately monitoring this activity, MoneyGram should have been able to prevent these losses.

In addition, although MoneyGram's anti-fraud program is required to have the "administrative, technical, and physical safeguards appropriate to Defendant's size and complexity, and the nature and scope of Defendant's activities" (Section I.D), MoneyGram failed to maintain those technical safeguards for at least an eighteen-month period from April 2015 through October 2016. During this time, MoneyGram's interdiction system, which was supposed to block fraud-induced money transfers, experienced serious technical problems and was ineffective at blocking a substantial number of such transfers. As a result, MoneyGram allowed individuals that it knew, or should have known, were using its system for fraud to obtain the proceeds of their frauds.

In response to the technical problems, MoneyGram failed to add individuals who had received, or were linked to, fraud-induced money transfers to its Internal Watch List, which is used for blocking fraud-induced money transfers in its system. Consequently, known fraudsters were able to continue using the system to obtain money from their victims. By failing to provide the necessary technical safeguards during this period, MoneyGram violated the Order.

C. MoneyGram Failed to Properly Train All Agents

The 2009 Order requires MoneyGram to provide appropriate and adequate ongoing education and training for all of its agents on how to detect and prevent consumer fraud (Sections I.D.3, III.A), but for years, MoneyGram sometimes failed to provide the required training. Although MoneyGram recognizes that its agents and their employees are the "first line of defense" in preventing fraud, it provided only limited training to certain agents and also failed to ensure that certain agents were properly training their own employees.

In many cases, MoneyGram adopted the train-the-trainer approach and relied upon its agents to provide training to their employees responsible for processing money transfers. MoneyGram failed, however, to ensure that the employees of agents responsible for sending and paying out money transfers were adequately trained about consumer fraud, including with respect to detecting and preventing fraud, properly recording consumers' biographical information and IDs, and addressing suspicious activities. For example, an audit of 397 locations of a large chain agent in 2014 disclosed that 1,863 "primary and secondary" employees responsible for processing money transfers had not had either initial or ongoing training, and 68 percent of secondary employees had not had any training at all. Moreover, even after MoneyGram began a new audit procedure in 2015, which involved not only providing advance notice of store audits, but also warning about the risk of suspension for non-compliance, the audits continued to find that some chain locations had untrained employees and other non-compliance issues. Even so, MoneyGram did not immediately suspend those locations, but instead gave them at least thirty days after the audit to train employees and address the non-compliance issues.

MoneyGram also failed to ensure that high-fraud agent locations that were required to conduct consumer fraud training as a remedial measure had promptly trained their employees to prevent future consumer fraud at those locations. In some cases, agents failed for months to conduct, or prove that they had conducted, the required consumer fraud training at their locations, even though the Order requires MoneyGram to take "[p]rompt disciplinary action against MoneyGram Agents…, including [by] requiring mandatory fraud training." (Section I.D.5.) Despite this requirement, MoneyGram permitted high-fraud agent locations to continue to have unfettered access to its system for months before taking further corrective action, such as by restricting them, to address their failure to train employees. According to MoneyGram's internal guidelines, MoneyGram only recommended restricting a location's ability to process money transfers if it was "[u]nable to complete fraud training within 100 calendar days." That is not "prompt disciplinary action" under the terms of the 2009 Order, as it enabled further fraud to be perpetrated through the agent's untrained employees for another 100 days.

D. MoneyGram Failed to Conduct Thorough Due Diligence of All Agents

Although MoneyGram is required under the 2009 Order to conduct "thorough due diligence" on prospective agents in order to avoid installing agents that might become involved or complicit in frauds, in some cases, it failed to do so. Under the Order, MoneyGram's due diligence must include, but not be limited to, verifying government-issued IDs, conducting reasonable background checks, conducting individualized assessments of applications, and conducting reasonable inquiries to ensure that prospective agents were not previously closed down by another money services business for fraud-related reasons. (Section II.A.) In some instances, MoneyGram's due diligence failures resulted in the installation of agents that had been closed by Western Union due to fraud or had backgrounds indicating that they were at risk for becoming involved or complicit in processing fraud-induced money transfers. MoneyGram also sometimes failed to maintain records demonstrating that it had conducted the required due diligence.

E. MoneyGram Failed to Record All Consumer Complaints

The Order requires MoneyGram to record all complaints relating to fraud-induced money transfers, and to share information about them with the FTC's Consumer Sentinel Network unless a consumer requests that the information not be shared with law enforcement.[4] (Sections III.B.1 and IV.B.) Despite these requirements, MoneyGram has, in some cases, failed to record, and ultimately share with the FTC, information that it has received about fraud-induced money transfers.[5] In addition, MoneyGram has failed to provide to Consumer Sentinel all of the complaints it received and recorded in its complaint database relating to U.S. and Canadian consumers. These failures to record and to share complaint information with Consumer Sentinel violate the Order.

III. CONSUMER COMPLAINTS ABOUT FRAUD-INDUCED MONEY TRANSFERS

MoneyGram maintains a database of complaints it receives about fraud-induced money transfers. Based on information in that database, between January 1, 2013 and April 30, 2018, MoneyGram received at least 295,775 complaints about fraud-induced money transfers. These complaints relate to a variety of scams, including, but not limited to, online or Internet purchase

[4] In instances where consumers have requested that their information not be shared with law enforcement, MoneyGram has been providing the FTC with their anonymized complaint information.

[5] This failure affects multiple aspects of MoneyGram's anti-fraud program, as well as compliance with the Order, since the complaint information is supposed to be used for purposes of identifying, investigating, and taking disciplinary actions against agents. It also is important for MoneyGram to share this information with the FTC, so that it can be made available to other law enforcement agencies that have access to Consumer Sentinel and use it for law enforcement purposes.

scams, person-in-need scams, investment scams, romance scams, and lottery or prize scams. Approximately 77 percent of the complaints in the database are from U.S. consumers and approximately 6 percent of the complaints are from Canadian consumers.

Moreover, a discrete set of agents processed most of the transactions related to the consumer fraud complaints. In fact, based on MoneyGram's complaints, only approximately 3.71 percent of its agents worldwide (approximately 13,000 locations) have received five or more fraud complaints since January 1, 2013, yet those agents account for approximately 84.48 percent of all complaints to MoneyGram.

The complaints in MoneyGram's database represent only a small percentage of the actual fraud perpetrated through its system because most victimized consumers do not complain directly to MoneyGram. In addition, as noted above, MoneyGram has not included information in its database about all of the complaints it has received about fraud-induced money transfers. Therefore, MoneyGram's database understates the actual amount of fraud through its money transfer system.

Despite MoneyGram's obligations to implement and maintain adequate and effective anti-fraud and AML programs designed to detect and prevent consumer fraud pursuant to the 2009 Order and the DPA, between 2012 and 2016, consumer fraud complaints to MoneyGram more than doubled, from approximately 26,485 complaints in 2012 to approximately 75,628 complaints in 2016. During the FTC's investigation of MoneyGram's compliance with the 2009 Order, MoneyGram began taking more meaningful disciplinary actions against agents—especially large chain agents—and complaints went down significantly in 2017.

IV. RELIEF REQUESTED

Without admitting or denying the allegations described herein, and in order to resolve those allegations, MoneyGram has agreed to the entry of a monetary judgment for compensatory relief in the amount of $125 million. Courts possess the inherent authority to enforce compliance with their orders. *FTC v. Asia Pac. Telecom, Inc.*, 788 F. Supp. 2d 779, 789 (N.D. Ill. 2011). Obedience to judicial orders is a fundamental expectation of our legal system. In particular, injunctions issued by a court of competent jurisdiction must be obeyed until withdrawn or vacated. *W.R. Grace & Co. v. Local Union 759*, 461 U.S. 757, 766 (1983); *APC Filtration, Inc. v. Becker*, 2010 U.S. Dist. LEXIS 125871, at *3 (N.D. Ill. Nov. 30, 2010). Courts have "wide discretion in fashioning an equitable remedy for civil contempt." *McGregor v. Chierico*, 206 F.3d 1378, 1385 n.5 (11th Cir. 2000) (citing *United States v. City of Miami*, 195 F.3d 1292, 1298 (11th Cir. 1999)). Where consumers suffer losses as a result of the violation of an FTC injunction, compensatory relief is the appropriate remedy. *FTC v. Trudeau*, 662 F.3d 947, 950 (7th Cir. 2011); *McGregor*, 206 F.3d at 1388-89.

MoneyGram also has agreed to the entry of an order modifying the 2009 Order to include a broader range of relief, including a requirement to interdict (or block) the transfers of known fraudsters and provide refunds for non-compliance with certain policies or procedures. This relief is necessary to address MoneyGram's non-compliance with the Order, including deficiencies in its anti-fraud program. This Court has the power to modify the terms of its injunctions in the event that changed circumstances require a modification. *See McGregor*, 206 F.3d at 1386, n.9; *United States v. Oregon*, 769 F.2d 1410, 1416 (9th Cir. 1985). For the reasons described above, there has been a change in circumstances, which warrants expanding the injunctive relief to ensure that MoneyGram is maintaining an adequate and comprehensive anti-fraud program designed to protect consumers.

V. CONCLUSION

For the foregoing reasons, the FTC respectfully requests that the Court enter the Stipulated Order for Compensatory Relief and Modified Order for Permanent Injunction. MoneyGram has represented to the FTC that it does not oppose this motion.

Dated: November 8, 2018

Respectfully Submitted,

/s/ Karen D. Dodge

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CERTIFICATE OF SERVICE

I, Karen D. Dodge, an attorney, hereby certify that, on November 8, 2018, I caused to be served a true copy of the foregoing **FTC's Unopposed Motion for Entry of Stipulated Order for Compensatory Relief and Modified Order for Permanent Injunction**, with written consent, by electronic mail on:

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