

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 02-61672-CIV-COHN/SELTZER

FILED by *slw* D.C.
FEB 11 2004
BLARENCE MADDOX
CLERK U.S. DIST. CT.
S.D. OF FLA. FT. LAUD

SECURITIES AND EXCHANGE COMMISSION,)
)
 Plaintiff,)
)
 v.)
)
 VIRTUAL CASH CARD LLC,)
 d/b/a VIRTUAL CASH,)
 ERIC L. TURNER,)
 KENNETH M. MAY,)
 OMNI ADVERTISING, INC., and)
 ANTHONY JOSEPH PINONE)
)
 Defendants,)
)
 and)
)
 VIRTUAL CASH CARD INTERNATIONAL, INC.,)
 OMNI ADVERTISING AND MARKETING, INC., and)
 KENANCE CONSULTING, INC.)
)
 Relief Defendants.)

**FINAL JUDGMENT OF PERMANENT INJUNCTION AND OTHER
RELIEF AS TO DEFENDANT ANTHONY JOSEPH PINONE**

Plaintiff Securities and Exchange Commission (“SEC” or “Commission”) commenced this action by filing its Complaint against, among others, Defendant Anthony Joseph Pinone (“Defendant”). In its Complaint, the Commission sought, among other relief, a permanent injunction to prohibit violations by the Defendant of Sections 5(a) and 5(c) of the Securities Act of 1933 (“Securities Act”) and Section 15(a)(1) of the Securities Exchange Act of 1934 (“Exchange Act”), an order providing for disgorgement and prejudgment interest thereon, and

imposition of a civil money penalty against Defendant pursuant to Section 20(d) of the Securities Act and Section 21(d) of the Exchange Act.

Defendant, by the Consent affixed hereto, without admitting or denying any of the allegations in the Commission's Complaint or any other paper filed herein, except as to the jurisdiction of this Court, has agreed to the entry of this Final Judgment of Permanent Injunction and Other Relief ("Final Judgment"). This Court having accepted such Consent and this Court having jurisdiction over the Defendant and the subject matter hereof, and the Court being fully advised in the premises,

I.

**VIOLATION OF SECTIONS 5(a)
AND 5(c) OF THE SECURITIES ACT**

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Defendant, his officers, agents, servants, employees, representatives, and all persons in active concert or participation with him, and each of them, directly or indirectly, who receive actual notice of this Final Judgment, by personal service or otherwise, be and they hereby are permanently restrained and enjoined from, directly or indirectly:

- (a) making use of the means or instruments of transportation or communication in interstate commerce or of the mails to sell any security, in the form of units, common stock, warrants or any other security, through the use or medium of any prospectus or otherwise, unless and until a registration statement is in effect with the Commission as to such security;
- (b) carrying or causing to be carried through the mails or in interstate commerce, by means or instruments of transportation, any security, in the form of units, common stock, warrants or any other security, for the purpose of sale or delivery after sale,

unless and until a registration statement is in effect with the Commission as to such security; or

- (c) making use of any means or instruments of transportation or communication in interstate commerce or of the mails to offer to sell or offer to buy any security, in the form of units, common stock, warrants or any other security, through the use or medium of any prospectus or otherwise, unless and until a registration statement is filed with the Commission as to such security, or while a registration statement filed with the Commission as to such security is the subject of a refusal order or stop order or (prior to the effective date of the registration statement) any public proceeding or examination under Section 8 of the Securities Act, 15 U.S.C. § 77h,

in violation of Sections 5(a) and 5(c) of the Securities Act, 15 U.S.C. §§ 77e(a) and 77e(c).

II.

VIOLATION OF SECTION 15(a)(1) OF THE EXCHANGE ACT

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant, his officers, agents, servants, employees, representatives, and all persons in active concert or participation with him, and each of them, directly or indirectly, who receive actual notice of this Final Judgment, by personal service or otherwise, be and they hereby are, permanently restrained and enjoined from, directly or indirectly, making use of the mails or any means or instrumentality of interstate commerce to effect any transactions in, or to induce or attempt to induce the purchase or sale of securities, while acting as a broker or dealer engaged in the business of effecting transactions in securities for the accounts of others, but not registered as a broker-dealer in accordance with Section 15(b) of the Exchange Act, 15 U.S.C. § 78o(b), in violation of Section 15(a)(1) of the Exchange Act, 15 U.S.C. § 78o(a)(1).

III.

DISGORGMENT AND CIVIL PENALTY

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant shall pay disgorgement in the amount of \$142,500, representing the proceeds he received as a result of the conduct alleged in the Complaint, together with pre-judgment interest thereon. In partial satisfaction of disgorgement, Defendant shall stipulate to the release and transfer of funds currently held frozen in the following bank accounts maintained at the Bank of America ("BOA") to the Clerk of the Court within thirty (30) days after the entry of this Final Judgment:

- (1) BOA Account No. 0030 6131 0613 in the name of M. Nancy Pinone and Anthony Pinone;
- (2) BOA Account No. 0027 1300 1048 in the name of Omni Advertising and Marketing, Inc.;
- (3) BOA Account No. 0034 4702 3100 in the name of Omni Advertising, Inc.

Defendant shall further stipulate that he relinquishes all legal and equitable right, title, and interest in such funds, and no part of the funds shall be returned to Defendant.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that based on Defendant's sworn representations in his Statement of Financial Condition dated September 19, 2003, and other documents submitted to the Commission, his liability for payment of the remaining disgorgement and pre-judgment interest thereon is waived, contingent upon the accuracy and completeness of the Statement of Financial Condition.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that based on Defendant's sworn representations in his Statement of Financial Condition dated September 19, 2003, and other documents submitted to the Commission, the Court is not ordering him to pay a

penalty. The determination not to impose a penalty and to waive payment of disgorgement and pre-judgment interest thereon is contingent upon the accuracy and completeness of his Statement of Financial Condition. If at any time following the entry of this Final Judgment the Commission obtains information indicating that Defendant's representations to the Commission concerning his assets, income, liabilities, or net worth were fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made, the Commission may, at its sole discretion and without prior notice to Defendant, petition this Court for an order requiring Defendant to pay the remaining amount of disgorgement set herein, plus pre-judgment and post-judgment interest thereon. In connection with any such petition, the only issue shall be whether the financial information provided by Defendant was fraudulent, misleading, inaccurate or incomplete in any material respect as of the time such representations were made. In its petition, the Commission may move this Court to consider all available remedies, including, but not limited to, ordering Defendant to pay funds or assets, directing the forfeiture of any assets, or sanctions for contempt of this Final Judgment, and the Commission may also request additional discovery. The Commission may also request additional discovery. Defendant may not, by way of defense to such petition: (1) challenge the validity of the Consent or the Final Judgment; (2) contest the allegations in the Complaint filed by the Commission; (3) assert that payment of disgorgement, pre-judgment interest and post-judgment interest should not be ordered; (4) contest the amount of disgorgement and pre-judgment and post-judgment interest; or (5) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

IV.

INCORPORATION OF CONSENT

IT IS HEREBY FURTHER ORDERED that Defendant shall comply with the provisions of the Consent attached hereto, and that such Consent is incorporated herein by reference as if fully set forth herein.

V.

RETENTION OF JURISDICTION

IT IS FURTHER HEREBY ORDERED that this Court will retain jurisdiction over this matter and the Defendant in order to implement and carry out the terms of all Orders and Decrees that may be entered and/or to entertain any suitable application or motion for additional relief within the jurisdiction of this Court, and will order other relief that this Court deems appropriate under the circumstances.

DONE AND ORDERED at 9:00 o'clock A.m. this 11TH day of FEBRUARY, 2004 at
FT. LAUDERDALE
Miami, Florida.


HONORABLE JAMES I. COHN
UNITED STATES DISTRICT JUDGE

Copies to:

Teresa J. Verges, Esq.
Securities and Exchange Commission
801 Brickell Avenue
Suite 1800
Miami, Florida 33131
Counsel for the Securities and Exchange Commission

Todd I. Stone, Esq.
Ruden McClosky Smith Schuster & Russell, PA.
200 East Broward Blvd.
Fort Lauderdale, FL 33301
*Counsel for Defendants Eric L. Turner, Kenneth M. May
Virtual Cash Card LLC and Relief Defendants
Virtual Cash Card Int'l, Inc. and Kennance Consulting, Inc.*

Alvin E. Entin, Esq
Entin, Margules & Della Ferra, P.A.
110 Southeast Sixth Street
Suite 1970
Fort Lauderdale, FL 33301
*Counsel for Defendants Anthony Joseph Pinone, Omni
Advertising, Inc. and Relief Defendant Omni Advertising and
Marketing, Inc.*