

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
IN AND FOR MIAMI-DADE COUNTY, FLORIDA

OFFICE OF THE ATTORNEY GENERAL,
DEPARTMENT OF LEGAL AFFAIRS,
STATE OF FLORIDA,

Plaintiff,

Case No.: 09-65667CA23

Judge: Sigler

vs.

ONREBATE.COM INC., a Delaware Corporation,
TIGERDIRECT INC., a Florida Corporation, and
SYSTEMAX INC., a Delaware Corporation.

Defendants.

SETTLEMENT AGREEMENT

The Plaintiff, **OFFICE OF THE ATTORNEY GENERAL, DEPARTMENT OF LEGAL AFFAIRS, STATE OF FLORIDA**, by and through the undersigned Assistant Attorney General, and the Defendants, **ONRE BATE.COM INC.**, a Delaware Corporation; **TIGERDIREC INC.**, a Florida Corporation, and **SYSTEMAX INC.**, a Delaware Corporation, enter into this Settlement Agreement for the purpose of resolving all issues pertaining to the present cause.

WHEREAS the Plaintiff initiated an investigation into the business acts and practices of the Defendants relating only to the processing of rebate claims (the matter under investigation and the subject matter of this Agreement) and subsequently filed a complaint alleging unfair and deceptive trade practices pursuant to Florida Statute 501 Part II (2009).

WHEREAS Defendant **ONREBATE.COM INC.** is in the business of rebate processing; **TIGERDIRECT INC.** is in the business of the sale of computers and other electronic equipment; and **SYSTEMAX INC.** is the parent company of **ONREBATE.COM INC.** and **TIGERDIRECT**

INC.;

WHEREAS the Defendants are prepared to enter into this Settlement Agreement (hereafter referred to as the “Agreement”) without any admission that they have violated Florida’s Deceptive and Unfair Trade Practices Act or any other law and for the purpose of resolution of the current investigation relating to rebate processing;

WHEREAS the Court has made no findings as to whether Defendants engaged in acts or practices in violation of Florida’s Unfair and Deceptive Trade Practices Act;

WHEREAS Defendants maintain and represent that there was never any intent to withhold rebates from consumers and that any delays in the issuance of said rebates were a result of either computer error or inefficiencies in the process that were addressed as soon as they became known and understood; and

WHEREAS both parties to this action consider this a fair and equitable resolution to the current action. Therefore, is hereby agreed as follows:

1. For the purposes of this Agreement and any Order resultant therefrom, the Defendants shall mean ONREBATE.COM INC., a Delaware Corporation; TIGERDIRECT, INC., a Florida Corporation, and SYSTEMAX INC., a Delaware Corporation, each such entity itself and by or through any subdivision, officer, owner, director, agent, employee or authorized representative.
2. Defendants shall make the substantive terms and conditions of this Agreement known to the officers, employees, agents, representatives, or any other persons that are substantially affected by this Agreement (i.e., that are involved in Defendants’ businesses, projects and activities relating to the subject of this Agreement). The obligation imposed by this paragraph is continuing in nature.
3. It is further agreed by the parties that none of the Defendants shall effect any change in

the form of doing business, or the organizational identity of any of the existing business entities, or create any new business entities, as a method of avoiding the terms and conditions set forth in this Agreement or avoid liability for payments to the Office of the Attorney General Revolving Escrow Trust Fund. This paragraph would not prohibit a change in the corporate form or identity for any legitimate business purpose, with the understanding the terms and conditions outlined herein would pertain to the successor entity.

4. Nothing in this Agreement shall be construed as a waiver of any private rights of any person or release of any private rights, causes of action, or remedies of any person against the Defendants.

5. The Defendants agree, in the marketing or sale of merchandise, to refrain from making any material false or misleading statements relating to:

- a. the ease of submitting rebate forms; and
- b. the time in which consumers would receive a rebate check.

6. The Defendants further agree:

- a. to refrain from making false representations to consumers relating to the cause of any delay in rebate payments;
- b. to process rebates within the time advertised;
- c. to pay rebates within the time advertised;
- d. to implement procedures that allow for the proper handling of rebate submissions, reasonably ensuring that documents or information provided by consumers are not separated and/or subsequently discarded, other than pursuant to the record maintenance period in Section 6(e) hereof;
- e. to maintain all records related to rebate processing and payment for a period of

three years and to make same available to the Office of the Attorney General upon request and upon reasonable notice;

f. to maintain all written consumer complaints (and memorialize all verbal complaints) relating to alleged improper business practices for a period of three years and to make such records available to the Office of the Attorney General upon request and upon reasonable notice;

7. Defendants have represented that they have resolved all previous consumer complaints regarding the allegations in the present complaint. As part of this Agreement, however, Defendants shall, within 120 days of the execution of the present Agreement, provide a notarized affidavit certifying that Defendants have resolved all complaints and paid all such rebates (where such rebates were due) provided by the Office of the Attorney General. A spreadsheet containing these complaints is attached and incorporated herein as Exhibit A to this Agreement.

As to each consumer listed in Exhibit A.

- a) Determine whether said consumer is entitled to a rebate.
- b) Where, according to the Defendants records, the consumer is entitled to a rebate, determine the proper amount of said rebate and promptly issue same (unless rebate had been previously paid.)
- c) The determination of whether a consumer is entitled to a rebate may require the Defendants to contact the consumer, in writing, and request additional documentation supporting the rebate request. Said documentation shall be the same as that required by Defendants pursuant to their regular rebate policy. Defendants can impose a time limit of 60 days from the date of such correspondence for refund eligibility and shall clearly and conspicuously disclose

this time limit in the correspondence. Upon receipt of the requested verification, Defendants shall promptly issue the requested rebate.

In every case in which a consumer listed in Exhibit A has not been provided a rebate, Defendants shall state in their affidavit the reason for the rebate denial. All such denials shall be subject to review by the Office of the Attorney General.

Defendants represent that they have paid rebates totaling Eighty Million Dollars (\$80 million) to all consumers who were eligible for rebates and who had made rebate claims from 2004 to the present.

8. Defendants have agreed to reimburse the State of Florida in the amount Two Hundred Thousand (\$200,000.00) Dollars for attorneys' fees and costs payable to "The State of Florida, Department of Legal Affairs Revolving Trust Fund" upon execution of this Agreement. Defendants have further agreed to donate One Hundred Thousand Dollars (\$100,000.00) as a charitable contribution to the Florida Alliance of Boys and Girls Clubs (FABGC). The FABGC is an umbrella organization of Boy's and Girl's Clubs in the State of Florida and shall be responsible for the distribution of said funds to the member Boy's and Girl's Club organizations. This donation shall be made upon the execution of the present Agreement. The intended purpose of this donation is that said monies will be used to purchase computer and electronic equipment to further the mission and goals of the Boys and Girls Clubs. The checks for the both the attorney fees and costs provision and for the charitable donation shall be delivered to South Florida Bureau Chief Robert R. Julian at "The Office of the Attorney General, 110 SE 6th St., 10th Floor, Fort Lauderdale, FL 33301" along with the partially executed Settlement Agreement.

9. By their signature below, the individuals signing on behalf of the corporate Defendants, warrant that they, at the time of signing this Agreement, are acting within their capacity and have

actual authority to bind the corporate Defendants to the terms and conditions of this Agreement.

10. It is hereby agreed by the parties that any failure to comply with the terms and conditions of this Agreement is, by statute, prima facie evidence of a violation of Chapter 501, Part II, Florida Statutes, and may subject Defendants to any and all civil penalties and sanctions authorized by law, including attorney's fees and costs.

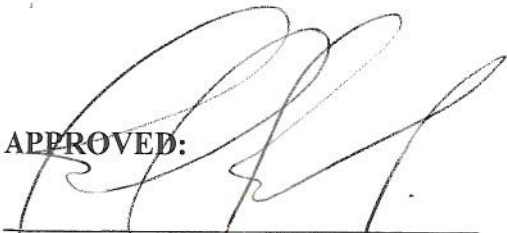
11. Upon execution of this Agreement, and upon the payment of the Attorneys Fees described in Paragraph 8 Plaintiff will voluntarily dismiss the complaint in the present cause. In consideration of the mutual promises herein and other good and valuable consideration and only upon full and complete performance of this Settlement Agreement, including, but not limited to, the execution of this Settlement Agreement and the payments provided for herein, the Plaintiff hereby releases, acquits and forever discharges each Defendant and their respective officers, directors, employees, agents, brokers, members, stockholders, successors, subsidiaries, affiliates, assigns, from any and all claims, demands, actions, causes of action, costs, expenses, attorneys' fees, or other damages or liability pursuant to F.S. 501, Part II, from the beginning of time through the date of this Agreement, arising from or relating to the advertising, processing or payment of rebates as alleged in the present complaint.


12. It is further agreed by the parties that the effective date of this Settlement Agreement shall be the date of its execution and delivery by all the parties, including each of the parties reflected by the signature lines below. Acceptance by the Office of the Attorney General shall be established by the signature of the Deputy Attorney General. The receipt by the Office of the Attorney General of any monies pursuant to the Settlement Agreement does not constitute acceptance by the Deputy Attorney General, and any monies received shall be returned to Defendants.

13. It is further agreed that facsimile copies of signatures and notary seals may be accepted as original for the purposes of establishing the existence of this agreement.

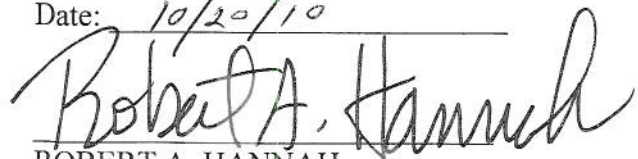
SIGNATURE PAGE FOLLOWS:

APPROVED:


ROBERT R. JULIAN
Bureau Chief, South Florida Region
Office of the Attorney General
110 SE 6th St., Tenth Floor
Ft. Lauderdale, FL 33301
Date: 10/20/10


MARY LEONTAKIANAKOS
Director, Economic Crimes Division
The Capitol
Tallahassee, FL 32399-1050

Date: 10/25/10



ROBERT A. HANNAH
Deputy Attorney General
The Capitol
Tallahassee, FL 32399-1050

Date: October 26, 2010

ONREBATE.COM INC., a Delaware Corporation

By: 

Print: LP REINHOLD

Title: TREASURER

The duly authorized representative of ONREBATE.COM INC.

Date: 10/7/10

SYSTEMAX INC., a Delaware Corporation

By: 

Print: LP REINHOLD

Title: EXECUTIVE V.P. + CFO

The duly authorized representative of SYSTEMAX INC,

Date: 10/7/10

TIGERDIRECT, INC., a Florida Corporation

By: 

Print: LP REINHOLD

Title: TREASURER

Date: 10/7/10

By: 

Curt Rush, Esq.
Attorney for Defendants

Date: 10/7/10