UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 0:22-cv-60298-RAR-JMS

FEDERAL TRADE COMMISSION,
Plaintiff,

v.

AMERICAN VEHICLE PROTECTION CORP., a corporation,

CG3 SOLUTIONS INC., also d/b/a MY PROTECTION PLAN INC., a corporation,

TONY ALLEN GONZALEZ, individually and as an owner, officer, and/or manager of American Vehicle Protection Corp., CG3 Solutions Inc., and Tony Gonzalez Consulting Group, Inc.

TONY GONZALEZ CONSULTING GROUP, INC., also d/b/a THE GONZALEZ GROUP, a corporation,

CHARLES GONZALEZ, individually and as an owner, officer, and/or manager of American Vehicle Protection Corp. and of CG3 Solutions Inc.,

DANIEL KOLE, individually and as an owner, officer, and/or manager of American Vehicle Protection Corp. and of Kole Consulting Group, Inc.

KOLE CONSULTING GROUP, INC., a corporation,

Defendants.

JOINT MOTION FOR 60-DAY STAY OF PROCEEDINGS AND DEADLINES IN LIGHT OF NEGOTIATIONS FOR A PROPOSED SETTLEMENT

Plaintiff Federal Trade Commission ("FTC" or "Commission") and Defendants Daniel Kole and Kole Consulting Group, Inc. (the "Kole Defendants") jointly submit this motion requesting that the Court stay or suspend all proceedings and deadlines in this case for sixty (60) days to provide the parties time to conclude negotiations and the Commission time to consider a proposed settlement agreed to by the Kole Defendants and Plaintiff's counsel. In support, the parties state as follows:

1. Plaintiff FTC is an independent governmental agency of the United States of America. The FTC is headed by five Commissioners,[1] nominated by the President and confirmed by the Senate, with each serving a seven-year term. Commission action, such as settling litigated matters, may only be taken with the concurrence of a majority of the participating Commissioners. *See* 16 C.F.R § 4.14(c).[2] Because the Commission cannot delegate its authority to settle litigation, undersigned counsel for the FTC cannot commit or bind the Commission to settlement. *See id.*

2. The Kole Defendants and Plaintiff's counsel are negotiating a proposed agreement ("proposed final order") resolving all of the FTC's claims against the Kole Defendants.[3] (The

[1] Currently, two vacancies exist.

[2] "Any Commission action, either at a meeting or by written circulation, may be taken only with the affirmative concurrence of a majority of the participating Commissioners, except where a greater majority is required by statute or rule or where the action is taken pursuant to a valid delegation of authority. No Commissioner may delegate the authority to determine his or her vote in any matter requiring Commission action, but authority to report a Commissioner's vote on a particular matter resolved either by written circulation, or at a meeting held in the Commissioner's absence, may be vested in a member of the Commissioner's staff." 16 C.F.R. § 4.14(c).

[3] The FTC previously settled with the other five Defendants in this matter (the "AVP Defendants"), and the Court entered the Stipulated Order for Permanent Injunction and Monetary Judgment as to the AVP Defendants on March 27, 2023. [*See* ECF No. 111].

Kole Defendants have not asserted counterclaims.) The Commissioners must meet to consider and approve the proposed final order before it can be filed for consideration by this Court.

3. The proposed final order will be put before the Commission shortly, and the parties anticipate that the Commission will meet and consider the proposed final order within sixty (60) days.

4. Absent a stay of this action, Plaintiff and the Kole Defendants will expend significant time and resources conducting depositions and briefing and responding to motions for summary judgment,[4] which would be rendered moot if the proposed final order is approved by the Commission.

Accordingly, in order to conserve judicial resources and the parties' resources, the parties jointly request that the Court stay or suspend all proceedings and deadlines in this matter for sixty (60) days.

Dated: April 17, 2023

Respectfully submitted,

/s/ *Harold E. Kirtz*

HAROLD E. KIRTZ, Trial Counsel
Florida Special Bar Number A5500743
HANS CLAUSEN, Trial Counsel
Florida Special Bar Number A5502378
CHRISTOPHER K. GLEASON,
Trial Counsel
Florida Special Bar Number A5502965
Federal Trade Commission
Southeast Region
233 Peachtree Street, Suite 1000
Atlanta, Georgia 30303
Phone: 404-656-1357 (Kirtz)
770-789-9378 (Kirtz mobile)
404-656-1361 (Clausen)
404-656-1352 (Gleason)
Fax: 404-656-1379

[4] Under the Court's Second Order Modifying Discovery/Trial Schedule, discovery ends on May 2, 2023, and motions for summary judgment are due on June 1, 2023. [ECF No. 108].

E-mail: hkirtz@ftc.gov
hclausen@ftc.gov
cgleason@ftc.gov

Attorneys for Plaintiff
FEDERAL TRADE COMMISSION

/s/ Enjolique A, Lett
Michael R. Sklaire (pro hac vice)
Shirin Afsous (pro hac vice)
Greenberg Traurig LLP
1750 Tysons Boulevard
Suite 1000
McLean, Virginia 22102
Tel: 703-749-1308
Fax: 703-749-1300
Email: sklairem@gtlaw.com
afsoussh@gtlaw.com

Enjoliqué Aytch Lett
Fla. Bar No. 0104881
GREENBERG TRAURIG, P.A.
333 SE 2nd Avenue
Suite 4400
Miami, Florida 33131
Tel: (305) 579-0640
Email: lette@gtlaw.com

Counsel for Defendants Daniel Kole and Kole Consulting Group, Inc.