



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
ATTORNEY GENERAL

DIVISION OF ECONOMIC JUSTICE
BUREAU OF INTERNET AND TECHNOLOGY

July 23, 2019

Claude Simon
534 West 42nd Street
8th Floor
New York, NY 10036

*Re: Our File Number: 19-024692-MI
Subject: Volusion, LLC*

Dear Claude Simon:

I am writing to notify you that we have received and reviewed the complaint you filed with the New York State Attorney General's Office. On behalf of Attorney General Letitia James, I want to thank you for taking the time to alert us to the problems you are experiencing. Your comments are vital to our efforts to serve the people of the State of New York.

The issue you describe is one that we wish to bring to the company's attention. To that end, we are forwarding a copy of your complaint and submitted documents to Volusion, LLC to request a statement of its position.

If you wish to contact us, please do so in writing by regular mail or e-mail us at IFraud@ag.ny.gov. Please be sure to include our file number and the full name of the company on any correspondence to this office. I will contact you again when there are developments to report.

Sincerely yours,

Hunter Blackmon

Hunter Blackmon
Bureau of Internet and Technology



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

LETITIA JAMES
ATTORNEY GENERAL

DIVISION OF ECONOMIC JUSTICE
BUREAU OF INTERNET AND TECHNOLOGY

July 30, 2019

Claude Simon
534 West 42nd Street
8th Floor
New York, NY 10036

*Re: Our File Number: 19-024692-MI
Subject: Volusion, LLC*

Dear Claude Simon:

Enclosed please find a copy of the response we received from Volusion, LLC regarding your complaint. Despite our efforts, the company's position does not appear to be reconcilable with yours as stated in your complaint.

In the case of individual complaints, our role is limited to that of mediator. Mediation is a voluntary procedure and we are not empowered to make judgments of fact. Therefore, we cannot force a settlement. Only a court may determine what rights you may have in this matter.

I regret that our efforts on your behalf have not led to a resolution of your complaint. However, I do want to thank you for having taken the time to alert us to the problems you experienced. In the event that this type of complaint develops into a pattern, your efforts may help us in aiding other consumers in your situation. We will keep a record of this complaint for future reference.

Sincerely yours,

Hunter Blackmon

Hunter Blackmon
Bureau of Internet and Technology

Enclosure



1835-A Kramer Lane,
Suite 100
Austin, TX 78758
800.646.3517
www.volusion.com

VIA EMAIL ONLY

ifraud@ag.ny.gov

Attn: Hunter Blackmon
Bureau of Internet and Technology
Division of Economic Justice
Office of the New York State Attorney General

RE: FILE NUMBER 19-024692-MI

Dear Sir,

We are in receipt of your correspondence regarding Mr. Claud Simons' Complaint with your office. We submit the following response in the spirit of cooperation and with a desire to put this matter to a rest.

At the outset we would like to note that Mr. Simons' reliance on ROSCA 15 USC §8403 is misplaced and does not apply to this transaction at all nor does it relate to Mr. Simon's relationship with Volusion. Specifically:

- (1) Mr. Simons' complaint does not relate to a negative option marketing campaign, which is the focus of Section 8403. By his own admission, at the time of the price change, Mr. Simons was an existing Volusion customer and had been so, paying monthly for services;
- (2) The above notwithstanding, as Mr. Simons does not dispute, Volusion did obtain Mr. Simons' consent properly prior to obtaining his billing information when he initially became a Volusion customer. In fact, Mr. Simons admits this fact as he admits that he had consented to being charged \$52 per month;
- (3) As a month to month customer. Mr. Simons was provided with a simple mechanism for changing his plan or stopping any recurring charges from being placed on his credit card, a mechanism of which he availed himself and received a satisfactory response. It is telling that Mr. Simon does not indicate in his complaint that he did avail himself of that option. He had both phone and email correspondence with Volusion and successfully lowered his bill. In fact, during that same exchange, Volusion went so far as to provide Mr. Simons with a single month refund as a courtesy for being a Volusion customer;
- (4) Mr. Simons is not disputing the legitimacy of the charge in question, but in fact, that it was based on a "single feature which we did not use then or ever ..." That Mr. Simons did not use a feature is not a basis for demanding a refund for being charged for same.

This said, Mr. Simons' claim that the increase in price was based on a Volusion feature which was "included in the old plan (free)" but later "triggered the 'upgrade'" is simply incorrect. In fact, the "feature" in question was not that of Volusion at all. It was an integration with Ebay which Mr. Simons had to affirmatively activate, and not from his Volusion account, but from his Ebay account. As such, not only was the feature not a Volusion feature, but Volusion could not even activate it.