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10 FEDERAL TRADE COMMISSION

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA

13 FEDERAL TRADE COMMISSION,
14
15 Plaintiff,
16 v.

17 HEALTH CARE ONE LLC, an Arizona
18 limited liability company, also d/b/a
19 "HealthcareOne," "Americans4
20 Healthcare," "Citizens4Healthcare,"
21 "American Eagle Healthcare,"
22 "EasyLife Healthcare," "Elite
23 Healthcare," "Global Healthcare," and
24 "Republic Healthcare";

25 AMERICANS4HEALTHCARE INC., a
26 Delaware corporation;

27 MICHAEL JAY ELLMAN, an
28 individual;

ELITE BUSINESS SOLUTIONS, INC.,
a Nevada corporation, also d/b/a
"EasyLife Healthcare," "Elite
Healthcare" and "Republic Healthcare";

ROBERT DANIEL FREEMAN, an
individual;

Defendants.

Case no. SACV10-1161-JVS-RNBx

STIPULATED FINAL JUDGMENT
AND ORDER FOR PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF AGAINST
DEFENDANTS ELITE BUSINESS
SOLUTIONS, INC., ALSO D/B/A
"EASYLIFE HEALTHCARE,"
"ELITE HEALTHCARE" AND
"REPUBLIC HEALTHCARE"; AND
ROBERT DANIEL FREEMAN

1 Plaintiff Federal Trade Commission (“FTC” or “Commission”) commenced
2 this civil action on August 3, 2010, pursuant to Sections 13(b) and 19 of the FTC
3 Act, 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing Consumer Fraud and Abuse
4 Prevention Act, 15 U.S.C. §§ 6101-6108, against Health Care One LLC,
5 Americans4Healthcare Inc., Elite Business Solutions, Inc., Michael Jay Ellman, and
6 Robert Daniel Freeman (also known as Dan Freeman) to obtain preliminary and
7 permanent injunctive and other equitable relief for Defendants’ violations of Section
8 5 of the FTC Act, 15 U.S.C. § 45, and the FTC’s Telemarketing Sales Rule (“TSR”),
9 16 C.F.R. Part 310, in connection with the marketing and sale of non-insurance
10 healthcare discount programs. The FTC and Defendants Elite Business Solutions,
11 Inc., and Robert Daniel Freeman (“Defendants”), have agreed to entry of this
12 Stipulated Final Judgment and Order for Permanent Injunction and Monetary Relief
13 (“Order”) to resolve all matters in dispute in this action between them.

14 **IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** as
15 follows:

16 **FINDINGS OF FACT**

17 1. This Court has jurisdiction over the subject matter of this case pursuant
18 to 15 U.S.C. §§ 45(a), 53(b), 57b, 6102(c), and 6105(b), and 28 U.S.C. §§ 1331,
19 1337(a), and 1345.

20 2. This Court has personal jurisdiction over each of the Defendants.

21 3. Venue in this District is proper under 15 U.S.C. §§ 53(b), and 28 U.S.C.
22 §§ 1391(b) and (c).

23 4. The activities of Defendants, as alleged in the Complaint, are in or
24 affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

25 5. The Complaint states a claim upon which relief may be granted under
26 Sections 5(a), 13(b), and 19 of the FTC Act, 15 U.S.C. §§ 45(a), 53(b), and 57b, and
27 the FTC’s Telemarketing Sales Rule, 16 C.F.R. Part 310.

28 6. Defendants have entered into this Order freely and without coercion.

1 Defendants further acknowledge that they have read the provisions of this Order and
2 are prepared to abide by them.

3 7. Defendants waive all rights to seek judicial review or otherwise
4 challenge or contest the validity of this Order. Defendants further waive and release
5 any claim they may have against the Commission and its employees, representatives,
6 and agents.

7 8. Defendants waive any claims they may have under the Equal Access to
8 Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the
9 date of the entry of this Order.

10 9. Nothing herein shall be deemed an admission of wrongdoing, an
11 admission of any allegation in the complaint in this action, or a waiver of any
12 defense or privilege, by Defendants.

13 **ORDER**

14 DEFINITIONS

15 For purposes of this Order, the following definitions shall apply:

16 1. **“Plaintiff”** means the Federal Trade Commission.

17 2. **“Defendants”** means the Individual Defendant and the Corporate
18 Defendant, individually, collectively, or in any combination.

19 3. **“Corporate Defendant”** means Defendant Elite Business Solutions,
20 Inc., also doing business as “EasyLife Healthcare,” “Elite Healthcare,” and
21 “Republic Healthcare,” and its successors and assigns.

22 4. **“Individual Defendant”** means Defendant Robert Daniel Freeman,
23 also known as Dan Freeman.

24 5. **“Receivership Defendants”** means Elite Business Solutions, Inc., also
25 d/b/a “EasyLife Healthcare,” “Elite Healthcare,” and “Republic Healthcare,” Mile
26 High Enterprise, Inc., Freeman Consulting, and Lighthouse Business Solutions LLC,
27 as well as any successors, assigns, affiliates, and subsidiaries that conduct any
28 business related to the Defendants’ “national healthcare discount program” and

1 which the Permanent Receiver has determined are owned or controlled in whole or in
2 part by any of the Defendants.

3 6. **“Assisting others”** means providing any of the following goods or
4 services to another person or entity:

- 5 a. performing customer service functions, including, but not limited
6 to, receiving or responding to consumer complaints; or
- 7 b. formulating or providing, or arranging for the formulation or
8 provision of, any telephone sales script or any other marketing
9 material; or
- 10 c. providing names of, or assisting in the generation of, potential
11 customers; or
- 12 d. performing marketing services of any kind.

13 7. **“Assets”** means any legal or equitable interest in, right to, or claim to,
14 any real or personal property, including, without limitation, chattels, goods,
15 instruments, equipment, fixtures, general intangibles, leaseholds, mail or other
16 deliveries, inventory, checks, notes, accounts, credits, contracts, receivables, shares
17 of stock, and all cash, wherever located.

18 8. The term **“document”** is equal in scope and synonymous in meaning to
19 the terms “document” and “electronically stored information,” as described and used
20 in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs,
21 charts, photographs, audio and video recordings, computer records, and any other
22 data compilations from which information can be obtained. A draft or non-identical
23 copy is a separate document within the meaning of the term.

24 9. The term **“healthcare-related good or service”** includes any program,
25 membership, card, product, or other good or service, which is not insurance, that
26 purports to offer discounts, savings, or benefits on healthcare, or access to such
27 discounts, savings, or benefits.

28 10. The term **“insurance”** means any good or service that (1) has the effect

1 of transferring or spreading risk; (2) is an integral part of the policy relationship
2 between the insurer and the insured; and (3) is limited to entities within the insurance
3 industry.

4 11. **“Material fact”** means any fact that is likely to affect a person’s choice
5 of, or conduct regarding, goods or services.

6 12. **“Person”** means a natural person, organization, or other legal entity,
7 including a corporation, partnership, proprietorship, association, cooperative, limited
8 liability company, or any other group or combination acting as an entity.

9 **I.**

10 **BAN RE HEALTHCARE-RELATED GOODS OR SERVICES**

11 **IT IS THEREFORE ORDERED** that Defendants, whether acting directly or
12 through any other person, are hereby permanently restrained and enjoined from:

13 A. Advertising, marketing, promoting, offering for sale, or selling any
14 healthcare-related good or service; and

15 B. Assisting others engaged in advertising, marketing, promoting, offering
16 for sale, or selling any healthcare-related good or service.

17 **II.**

18 **PROHIBITION AGAINST MISREPRESENTING**

19 **OTHER GOODS AND SERVICES**

20 **IT IS FURTHER ORDERED** that Defendants and their officers, agents,
21 servants, employees, and attorneys, and those persons or entities in active concert or
22 participation with any of them who receive actual notice of this Order by personal
23 service or otherwise, whether acting directly or through any corporation, subsidiary,
24 division, or other device, in connection with the advertising, marketing, promotion,
25 offering for sale, or sale of any good or service, other than a healthcare-related good
26 or service, are hereby permanently restrained and enjoined from misrepresenting or
27 assisting others in misrepresenting, expressly or by implication, any material fact,
28 including but not limited to:

- 1 A. That the program offered is insurance;
- 2 B. That the good or service is affiliated with or endorsed or sponsored by
- 3 the federal government;
- 4 C. That any person or entity is an agency of or affiliated with, endorsed or
- 5 approved by, or otherwise connected to the Federal government or a
- 6 state government
- 7 D. That purchase of the good or service will result in substantial savings to
- 8 the consumers;
- 9 E. Any material aspect of the performance, efficacy, nature, or
- 10 characteristics of the good or service;
- 11 F. The total costs to purchase, receive, or use, and the quantity of, the good
- 12 or service;
- 13 G. Any material restriction, limitation, or condition to purchase, receive, or
- 14 use the good or service; and
- 15 H. Any material aspect of the nature or terms of any refund, cancellation,
- 16 exchange, or repurchase policy, including, but not limited to, the
- 17 likelihood of a consumer obtaining a full or partial refund, or the
- 18 circumstances in which a full or partial refund will be granted to the
- 19 consumer.

20 **III.**

21 **PROHIBITION AGAINST VIOLATING**
22 **THE TELEMARKETING SALES RULE**

23 **IT IS FURTHER ORDERED** that Defendants and their officers, agents,
24 servants, employees, and attorneys, and those persons or entities in active concert or
25 participation with any of them who receive actual notice of this Order by personal
26 service or otherwise, whether acting directly or through any corporation, subsidiary,
27 division, or other device, in connection with the telemarketing of any good or
28 service, other than a healthcare-related good or service, are hereby permanently

1 restrained and enjoined from violating any provision of the Telemarketing Sales
2 Rule, 16 C.F.R. Part 310, including, but not limited to:

3 A. Violating Section 310.3(a)(2)(iii) of the TSR, 16 C.F.R.
4 § 310.3(a)(2)(iii), by misrepresenting, directly or by implication, any material aspect
5 of the performance, efficacy, nature, or central characteristics of the good or service,
6 including:

- 7 1. That the program offered is insurance;
- 8 2. That enrollment in the good or service will result in substantial
9 savings to the consumer;
- 10 3. That consumers who purchase the good or service will be able to
11 use the good or service as represented; or
- 12 4. Any other fact material to a consumer's decision to purchase any
13 good or service from Defendants; and

14 B. Violating Section 310.3(a)(2)(iv) of the TSR, 16 C.F.R.
15 § 310.3(a)(2)(iv), by misrepresenting, directly or by implication, any material aspect
16 of the nature or terms of the seller's refund or cancellation policies.

17 C. Violating Section 310.4(b)(1)(v) of the TSR, 16 C.F.R.
18 § 310.4(b)(1)(v), governing the telephonic delivery of prerecorded messages.

19 IV.

20 MONETARY RELIEF

21 **IT IS FURTHER ORDERED** that:

22 A. Judgment is hereby entered in favor of the Commission and against
23 Defendants, jointly and severally, in the amount of \$8,939,374 (eight million nine
24 hundred thirty-nine thousand three hundred seventy-four dollars), as equitable
25 monetary relief for consumer injury; provided, however, that subject to the
26 provisions of the Section titled "Right to Reopen," below, this judgment shall be
27 suspended upon Defendants' completion of the requirements stated in subparagraphs
28 IV.B. and IV.D.

1 B. Defendants shall transfer \$46,000 (forty-six thousand dollars) to the
2 Commission or its designated agent within ten (10) business days of entry of this
3 order by the Court, in accordance with instructions provided by a representative of
4 the Commission.

5 C. Defendants hereby grant to the FTC all right and claim they currently
6 have to their frozen assets currently in the possession, custody, or control of the
7 Permanent Receiver.

8 D. Defendants shall take all necessary steps to cause MML Investors
9 Services to remit the entire amount held in the MML Investors Services account
10 #xxxxxx5902 (individual account) to the Commission.

11 E. In the event of default on any obligation to make payment under this
12 Order, interest, computed pursuant to 28 U.S.C. § 1961(a), shall accrue from the date
13 of default to the date of payment. In the event such default continues for ten (10)
14 calendar days beyond the date the payment is due, the entire amount of the judgment,
15 less any amounts previously paid pursuant to this order, together with interest, shall
16 immediately become due and payable. Defendants shall be jointly and severally
17 liable for all payments required by this Order and any interest on such payments.

18 F. All funds paid pursuant to this Order shall be deposited into a fund
19 administered by the Commission or its agents to be used for equitable relief,
20 including, but not limited to, redress to consumers, and any attendant expenses for
21 the administration of such equitable relief. In the event that direct redress to
22 consumers is wholly or partially impracticable or funds remain after the redress is
23 completed, the Commission may apply any remaining funds for such other equitable
24 relief (including consumer information remedies) as it determines to be reasonably
25 related to Defendants' practices alleged in the Complaint. Any funds not used for
26 such equitable relief shall be deposited to the United States Treasury as
27 disgorgement. Defendants shall have no right to challenge the Commission's choice
28 of remedies under this Paragraph. Defendants shall have no right to contest the

1 manner of distribution chosen by the Commission.

2 G. No portion of any payment under the Judgment herein shall be deemed
3 a payment of any fine, penalty, or punitive assessment.

4 H. Defendants relinquish all dominion, control, and title to the funds paid
5 to the fullest extent permitted by law. Defendants shall make no claim to or demand
6 for return of the funds, directly or indirectly, through counsel or otherwise.

7 I. Defendants agree that the facts as alleged in the Complaint filed in this
8 action shall be taken as true without further proof in any bankruptcy case or
9 subsequent civil litigation pursued by the Commission to enforce its rights to any
10 payment or money judgment pursuant to this Order, including but not limited to a
11 nondischargeability complaint in any bankruptcy case. Defendants further stipulate
12 and agree that the facts alleged in the Complaint establish all elements necessary to
13 sustain an action by the Commission pursuant to Section 523(a)(2)(A) of the
14 Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and that this Order shall have collateral
15 estoppel effect for such purposes.

16 J. In accordance with 31 U.S.C. § 7701, Defendants are hereby required,
17 unless they have done so already, to furnish to the Commission their taxpayer
18 identifying numbers and/or social security numbers, which shall be used for the
19 purposes of collecting and reporting on any delinquent amount arising out of
20 Defendants' relationship with the government.

21 K. Defendants agree that they will not, whether acting directly or through
22 any corporation, partnership, subsidiary, division, trade name, device, or other entity,
23 submit to any federal or state tax authority any return, amended return, or other
24 official document that takes a deduction for, or seeks a tax refund or other favorable
25 treatment for, any payment by Defendants pursuant to this Order.

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V.

RIGHT TO REOPEN

IT IS FURTHER ORDERED that:

A. The Commission’s agreement to, and the Court’s approval of, this Order, including, but not limited to, the suspension of the monetary judgment against Defendants, is expressly premised upon the truthfulness, accuracy, and completeness of Defendants’ financial condition, as represented in the following financial statements, including all attachments and supplemental materials, copies of tax returns for Defendants (collectively, “Financial Statements”), all of which the Commission relied upon in negotiating and agreeing to the terms of this Order:

1. Financial Statement of Individual Defendant Robert Daniel Freeman, dated August 12, 2010 (including amended Item 11 provided to the FTC on August 19, 2010);
2. The Freeman Living Trust, dated September 10, 2009;
3. Federal and state tax returns of Robert Daniel Freeman and Yuka S. Freeman for tax years 2006, 2007, and 2008;
4. Financial Statement of Corporate Defendant Elite Business Solutions, Inc., dated August 12, 2010 (provided to the FTC on August 17, 2010) (including amended Item 8 provided to the FTC on August 19, 2010);
5. Elite Business Solutions, Inc.’s federal tax returns for the years 2007 and 2008;
6. Elite Business Solutions, Inc.’s balance sheets and profit and loss statements for 2007-2009 and for 2010 as of August 17, 2010;
7. November 16, 2010 e-mail from Defendants’ attorney Hector Lora to FTC counsel, forwarding Robert Daniel Freeman’s responses to questions posed in FTC’s November 16, 2010 e-mail;

1 8. November 30, 2010 e-mail from Defendants’ attorney Hector
2 Lora to FTC counsel, forwarding Robert Daniel Freeman’s
3 responses to questions posed in FTC’s November 24, 2010 e-
4 mail;

5 9. Financial Statement of Lighthouse Business Solutions LLC, dated
6 August 16, 2010; and

7 10. Financial Statement of Platinum Business Group LLC, dated
8 August 18, 2010.

9 B. If, upon motion by the Commission to the Court, the Court finds that
10 any Defendant, in any of the above-referenced Financial Statements, failed to
11 disclose any asset with a value in excess of \$1,000, materially misrepresented the
12 value of any asset, or made any other material misrepresentation or omission, the
13 suspension shall be lifted on the monetary judgment in Section IV (“Monetary
14 Relief”), above, and that judgment amount, less any payments already made to the
15 Commission, shall be immediately due and payable.

16 *Provided, however*, that in all other respects, this Order shall remain in full
17 force and effect, unless otherwise ordered by the Court; and,

18 *Provided further*, that proceedings initiated under this provision would be in
19 addition to, and not in lieu of, any other civil or criminal remedies as may be
20 provided by law, including any proceedings that the Commission may initiate to
21 enforce this Order.

22 VI.

23 CONSUMER INFORMATION

24 **IT IS FURTHER ORDERED** that Defendants and their officers, agents,
25 servants, employees, and attorneys, and those persons or entities in active concert or
26 participation with any of them who receive actual notice of this Order by personal
27 service or otherwise, whether acting directly or through any corporation, subsidiary,
28 division, or other device, are permanently restrained and enjoined from:

1 occurrences that are the subject of the Complaint, or provide a written declaration or
2 affidavit made under penalty of perjury, without the service of a subpoena.

3 **VIII.**

4 **LIFTING OF ASSET FREEZE**

5 **IT IS FURTHER ORDERED** that the freeze of Defendants' assets set forth
6 in the Preliminary Injunction, filed by this Court on August 23, 2010, shall be lifted
7 to the extent necessary to turn over Defendants' assets as required by Section IV
8 ("Monetary Relief") of this Order, and upon completion of the turn-over, shall be
9 lifted permanently.

10 **IX.**

11 **TURNOVER OF ASSETS HELD BY THIRD PARTIES**

12 **IT IS FURTHER ORDERED that**, to partially satisfy the monetary
13 judgment set forth in Section IV above, any law firm, financial or brokerage
14 institution, escrow agent, title company, commodity trading company, automated
15 clearing house, payment processor, business entity, or Person served with a copy of
16 this Order, that holds, controls or maintains custody of any account or asset of, on
17 behalf of, or for the benefit of Defendants, or has held, controlled, or maintained
18 custody of any account or asset of, on behalf of, or for the benefit of Defendants,
19 shall turn over such asset or funds to the Commission, in accordance with
20 instructions provided by a representative of the Commission, within ten (10)
21 business days of receiving notice of this Order by any means, including but not
22 limited to by facsimile.

23 **X.**

24 **COMPLIANCE MONITORING**

25 **IT IS FURTHER ORDERED** that, for the purpose of (i) monitoring and
26 investigating compliance with any provision of this Order, and (ii) investigating the
27 accuracy of any Defendants' financial statements upon which the Commission's
28 agreement to this Order is expressly premised:

1 A. Within ten (10) days of receipt of written notice from a representative of
2 the Commission, Defendants each shall submit additional written reports, which are
3 true and accurate and sworn to under penalty of perjury; produce documents for
4 inspection and copying; appear for deposition; and provide entry during normal
5 business hours to any business location in each Defendant's possession or direct or
6 indirect control to inspect the business operation;

7 B. In addition, the Commission is authorized to use all other lawful means,
8 including but not limited to:

- 9 1. obtaining discovery from any person, without further leave of
10 court, using the procedures prescribed by Fed. R. Civ. P. 30, 31,
11 33, 34, 36, 45 and 69;
- 12 2. having its representatives pose as consumers and suppliers to
13 Defendants, their employees, or any other entity managed or
14 controlled in whole or in part by any Defendant, without the
15 necessity of identification or prior notice; and

16 C. Defendants each shall permit representatives of the Commission to
17 interview any employer, consultant, independent contractor, representative, agent, or
18 employee who has agreed to such an interview, relating in any way to any conduct
19 subject to this Order. The person interviewed may have counsel present.

20 ***Provided however,*** that nothing in this Order shall limit the Commission's
21 lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15
22 U.S.C. §§ 49, 57b-1, to obtain any documentary material, tangible things, testimony,
23 or information relevant to unfair or deceptive acts or practices in or affecting
24 commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

1 **XI.**

2 **COMPLIANCE REPORTING**

3 **IT IS FURTHER ORDERED** that, in order that compliance with the
4 provisions of this Order may be monitored:

5 A. For a period of five (5) years from the date of entry of this Order,

6 1. Each Individual Defendant shall notify the Commission of the
7 following:

8 a. Any changes in such Defendant's residence, mailing
9 addresses, and telephone numbers, within ten (10) days of
10 the date of such change;

11 b. Any changes in such Defendant's employment status
12 (including self-employment), and any change in such
13 Defendant's ownership in any business entity, within ten
14 (10) days of the date of such change. Such notice shall
15 include the name and address of each business that such
16 Defendant is affiliated with, employed by, creates or forms,
17 or performs services for; a detailed description of the
18 nature of the business; and a detailed description of such
19 Defendant's duties and responsibilities in connection with
20 the business or employment; and

21 c. Any changes in such Defendant's name or use of any
22 aliases or fictitious names within ten (10) days of the date
23 of such change;

24 2. Defendants shall notify the Commission of any changes in
25 structure of any Corporate Defendant or any business entity that
26 any Defendant directly or indirectly controls, or has an ownership
27 interest in, that may affect compliance obligations arising under
28 this Order, including but not limited to: incorporation or other

1 organization; a dissolution, assignment, sale, merger, or other
2 action; the creation or dissolution of a subsidiary, parent, or
3 affiliate that engages in any acts or practices subject to this Order;
4 or a change in the business name or address, at least thirty (30)
5 days prior to such change, *provided* that, with respect to any such
6 change in the business entity about which a Defendant learns less
7 than thirty (30) days prior to the date such action is to take place,
8 such Defendant shall notify the Commission as soon as is
9 practicable after obtaining such knowledge.

10 B. One hundred eighty (180) days after the date of entry of this Order and
11 annually thereafter for a period of five (5) years, Defendants each shall provide a
12 written report to the FTC, which is true and accurate and sworn to under penalty of
13 perjury, setting forth in detail the manner and form in which they have complied and
14 are complying with this Order. This report shall include, but not be limited to:

15 1. For each Individual Defendant:

- 16 a. such Defendant's then-current residence address, mailing
17 addresses, and telephone numbers;
- 18 b. such Defendant's then-current employment status
19 (including self-employment), including the name,
20 addresses, and telephone numbers of each business that
21 such Defendant is affiliated with, employed by, or
22 performs services for; a detailed description of the nature
23 of the business; and a detailed description of such
24 Defendant's duties and responsibilities in connection with
25 the business or employment; and
- 26 c. Any other changes required to be reported under
27 Subsection A of this Section.

28 2. For all Defendants:

- 1 a. A copy of each acknowledgment of receipt of this Order,
2 obtained pursuant to the Section titled “Distribution of
3 Order;” and
4 b. Any other changes required to be reported under
5 Subsection A of this Section.

6 C. Each Defendant shall notify the Commission of the filing of a
7 bankruptcy petition by such Defendant within fifteen (15) days of filing.

8 D. For the purposes of this Order, Defendants shall, unless otherwise
9 directed by the Commission’s authorized representatives, send by overnight courier
10 (not the U.S. Postal Service) all reports and notifications to the Commission that are
11 required by this Order to:

12 Associate Director for Enforcement
13 Bureau of Consumer Protection
14 Federal Trade Commission
15 600 Pennsylvania Avenue, N.W.
16 Washington, D.C. 20580

17 RE: FTC v. Health Care One, et al., #X100045.

18 *Provided that*, in lieu of overnight courier, Defendants may send such reports
19 or notifications by first-class mail, but only if Defendants contemporaneously
20 send an electronic version of such report or notification to the Commission at
21 DEbrief@ftc.gov.

22 E. For purposes of the compliance reporting and monitoring required by
23 this Order, the Commission is authorized to communicate directly with each
24 Defendant.

25 **XII.**

26 **RECORDKEEPING**

27 **IT IS FURTHER ORDERED** that, for a period of eight (8) years from the
28 date of entry of this Order, Defendants for any business for which they, individually

1 or collectively, are the majority owner or directly or indirectly control, are hereby
2 restrained and enjoined from failing to create and retain the following records:

3 A. Accounting records that reflect the cost of goods or services sold,
4 revenues generated, and the disbursement of such revenues;

5 B. Personnel records accurately reflecting: the name, address, and
6 telephone number of each person employed in any capacity by such business,
7 including as an independent contractor; that person's job title or position; the date
8 upon which the person commenced work; and the date and reason for the person's
9 termination, if applicable;

10 C. Customer files containing the names, addresses, phone numbers, dollar
11 amounts paid, quantity of items or services purchased, and description of items or
12 services purchased, to the extent such information is obtained in the ordinary course
13 of business;

14 D. Complaints and refund requests (whether received directly or indirectly,
15 such as through a third party,) and any responses to those complaints or requests;

16 E. Copies of all sales scripts, training materials, advertisements, or other
17 marketing materials; and

18 F. All records and documents necessary to demonstrate full compliance
19 with each provision of this Order, including but not limited to, copies of
20 acknowledgments of receipt of this Order required by the Sections titled
21 "Distribution of Order" and "Acknowledgment of Receipt of Order" and all reports
22 submitted to the FTC pursuant to the Section titled "Compliance Reporting."

23 XIII.

24 DISTRIBUTION OF ORDER

25 **IT IS FURTHER ORDERED** that, for a period of five (5) years from the
26 date of entry of this Order, Defendants shall deliver copies of the Order as directed
27 below:

28 A. Corporate Defendant: Each Corporate Defendant must deliver a copy of

1 this Order to (1) all of its principals, officers, directors, and managers; (2) all of its
2 employees, agents, and representatives who engage in conduct related to the subject
3 matter of the Order; and (3) any business entity resulting from any change in
4 structure set forth in Subsection A.2 of the Section titled "Compliance Reporting."
5 For current personnel, delivery shall be within five (5) days of service of this Order
6 upon such Defendant. For new personnel, delivery shall occur prior to them
7 assuming their responsibilities. For any business entity resulting from any change in
8 structure set forth in Subsection A.2 of the Section titled "Compliance Reporting,"
9 delivery shall be at least ten (10) days prior to the change in structure.

10 B. Individual Defendant as control person: For any business that an
11 Individual Defendant controls, directly or indirectly, or in which such Defendant has
12 a majority ownership interest, such Defendant must deliver a copy of this Order to
13 (1) all principals, officers, directors, and managers of that business; (2) all
14 employees, agents, and representatives of that business who engage in conduct
15 related to the subject matter of the Order; and (3) any business entity resulting from
16 any change in structure set forth in Subsection A.2 of the Section titled "Compliance
17 Reporting." For current personnel, delivery shall be within five (5) days of service
18 of this Order upon such Defendant. For new personnel, delivery shall occur prior to
19 them assuming their responsibilities. For any business entity resulting from any
20 change in structure set forth in Subsection A.2 of the Section titled "Compliance
21 Reporting," delivery shall be at least ten (10) days prior to the change in structure.

22 C. Individual Defendant as employee or non-control person: For any
23 business where an Individual Defendant is not a controlling person of a business but
24 otherwise engages in conduct related to the subject matter of this Order, such
25 Defendant must deliver a copy of this Order to all principals and managers of such
26 business before engaging in such conduct.

27 D. Defendants must secure a signed and dated statement acknowledging
28 receipt of the Order, within thirty (30) days of delivery, from all persons receiving a

1 copy of the Order pursuant to this Section.

2 **XIV.**

3 **ACKNOWLEDGMENT OF RECEIPT OF ORDER**

4 **IT IS FURTHER ORDERED** that each Defendant, within five (5) business
5 days of receipt of this Order as entered by the Court, must submit to the Commission
6 a truthful sworn statement acknowledging receipt of this Order.

7 **XV.**

8 **RETENTION OF JURISDICTION**

9 **IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this
10 matter for purposes of construction, modification, and enforcement of this Order.

11 **XVI.**

12 **ENTRY OF ORDER**

13 **IT IS FURTHER ORDERED** that there is no just reason for delay, and the
14 Clerk of the Court is hereby directed to enter this Order immediately.

15 **IT IS SO ORDERED.**

16
17 Dated: April 18, 2011



18 _____
Honorable James V. Selna
United States District Judge