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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF ARIZONA**

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9 Federal Trade Commission,
10 Plaintiff,
11 v.
12 Handicapped & Disabled
Workshops, Inc., *et al.*,
13 Defendants.

Case No. CV-08-0908-PHX-DGC

**STIPULATED FINAL JUDGMENT
AND ORDER FOR PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF AGAINST
JOSHUA D. ABRAMSON**

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15 This matter comes before the Court on the stipulation of Plaintiff, the Federal
16 Trade Commission (“FTC” or “Commission”), and Defendant Joshua D. Abramson. On
17 May 13, 2008, the Commission filed a Complaint for a permanent injunction and other
18 equitable relief in this matter pursuant to Sections 13(b) and 19(a) of the Federal Trade
19 Commission Act (“FTC Act”), 15 U.S.C. § 53(b) and 57b(a). The FTC charged
20 defendants Handicapped & Disabled Workshop, Inc., Handi-Hope Industries, Inc., Handi-
21 Ship, LLC, Bruce D. Peeples, George Thomas, and Joshua D. Abramson with engaging in
22 deceptive acts or practices in connection with the telemarketing and sale of various
23 household products, in violation of: Section 5(a) of the FTC Act, 15 U.S.C. § 45(a); the
24 Commission’s Telemarketing Sales Rule, 16 C.F.R. Part 310; and the Unordered
25 Merchandise Statute, 39 U.S.C. § 3009. The Commission and Defendant Joshua D.
26 Abramson have agreed to the entry of this Stipulated Final Order for Permanent
27 Injunction and Other Equitable Relief (“Order”) and to entry of the First Amended
28 Complaint to resolve all matters of dispute between them with respect to the conduct

1 alleged in this action. Accordingly, by stipulation of the parties to this Order, it is hereby

2 **ORDERED, ADJUDGED, AND DECREED:**

3 **FINDINGS**

4 1. This Court has jurisdiction of the subject matter of this case and the parties
5 hereto. Venue is proper as to all parties in the District of Arizona.

6 2. The activities of Defendant Joshua D. Abramson are in or affecting
7 commerce, as defined in the FTC Act, 15 U.S.C. § 44.

8 3. The First Amended Complaint states a claim upon which relief may be
9 granted against Defendant Joshua D. Abramson.

10 4. Defendant Joshua D. Abramson waives all rights to seek judicial review or
11 otherwise challenge or contest the validity of this Order. Defendant Joshua D. Abramson
12 further waives any claim that may arise under the Equal Access to Justice Act, 28 U.S.C.
13 § 2412, and any claims he may have against the Commission, its employees,
14 representatives, or agents.

15 5. Defendant Joshua D. Abramson enters into this Order freely and without
16 coercion and acknowledges that he has read, understands, and is prepared to abide by, the
17 provisions of this Order.

18 6. By entering into this Order, Defendant Joshua D. Abramson does not admit
19 to the allegations set forth in the First Amended Complaint, other than the jurisdictional
20 facts. Defendant Joshua D. Abramson's consent to entry of this Order shall not be
21 interpreted to constitute an admission by him that he has engaged in any violations of any
22 law or regulation.

23 7. This Order is in addition to, and not in lieu of, other remedies that may be
24 provided by law, including both civil and criminal remedies.

25 8. Entry of this Order is in the public interest.

26 **DEFINITIONS**

27 For the purpose of this Order, the following definitions shall apply:

28 1. "Assets" means any legal or equitable interest in, right to, or claim to, any

1 real and personal property, including, but not limited to chattel, goods, instruments,
2 equipment, fixtures, general intangibles, inventory, checks, notes, leaseholds, effects,
3 contracts, mail or other deliveries, shares of stock, lists of consumer names, accounts,
4 credits, premises, receivables, funds, and cash, wherever located, whether in the United
5 States or abroad.

6 2. “Defendant Abramson” means Joshua D. Abramson.

7 3. “Document” is synonymous in meaning and equal in scope to the usage of
8 the term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings,
9 graphs, charts, photographs, audio and video recordings, computer records, and other data
10 compilations from which information can be obtained and translated, if necessary,
11 through detection devices into reasonably usable form. A draft or non-identical copy is a
12 separate document within the meaning of the term.

13 4. “Material” means likely to affect a person’s choice of, or conduct regarding,
14 goods or services.

15 5. “Person” means a natural person, an organization or other legal entity,
16 including a corporation, partnership, sole proprietorship, limited liability company,
17 association, cooperative, or any other group or combination acting as an entity.

18 6. “Representatives” means Defendant Abramson’s successors, assigns,
19 officers, agents, servants, employees, and those persons in active concert or participation
20 with Defendant Abramson who receive actual notice of this Order, by personal service or
21 otherwise.

22 7. “Telemarketing” means any plan, program or campaign (whether or not
23 covered by the Telemarketing Sales Rule, 16 C.F.R. Part 310) that is conducted to induce
24 the purchase of goods or services by means of the use of one or more telephones.

25 8. The terms “and” and “or” have both conjunctive and disjunctive meanings.
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1 **ORDER**

2 **I.**

3 **PROHIBITED REPRESENTATIONS**

4 **IT IS THEREFORE ORDERED** that Defendant Abramson and his
5 Representatives are hereby permanently restrained and enjoined from making or assisting
6 others in making, expressly or by implication, any false or misleading statement or
7 representation or omission of Material fact in connection with the advertising, offering for
8 sale, sale, or distribution of any good or service, including, but not limited to,
9 misrepresenting any of the following:

10 A. That any consumer's purchase will significantly help handicapped or
11 disabled people;

12 B. That the person soliciting any consumer's purchase is handicapped or
13 disabled;

14 C. That all or most persons employed by or working on behalf of Defendant
15 Abramson or his Representatives are handicapped or disabled;

16 D. That any handicapped or disabled person packages products;

17 E. That Defendant Abramson or his Representatives operate a charitable
18 organization;

19 F. That any consumer ordered, purchased, or agreed to purchase goods or
20 services, and therefore owes money to Defendant Abramson or his Representatives;

21 G. The total cost to purchase, receive, or use, and the quantity of, any goods or
22 services that are subject to the sales offer;

23 H. Any material restrictions, limitations, or conditions to purchase, receive, or
24 use the goods or services;

25 I. Any material aspect of the nature or terms of a refund, cancellation,
26 exchange, or repurchase policy for the goods or services; and

27 J. Any material aspect of the performance, efficacy, nature, or central
28 characteristics of goods or services that are the subject of the sale.

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II.

**PROHIBITIONS AGAINST DECEPTIVE AND ABUSIVE
TELEMARKETING PRACTICES**

IT IS FURTHER ORDERED that Defendant Abramson and his Representatives, in connection with the advertising, offering for sale, sale, or distribution of any good or service, are hereby permanently restrained and enjoined from violating or assisting others in violating, in any manner, any provision of the Commission's Telemarketing Sales Rule, 16 C.F.R. Part 310 (attached hereto as Attachment A), as currently promulgated or as it may hereafter be amended, including, but not limited to, any of the following:

A. Making any false or misleading statements to induce consumers to pay for goods or services or to induce a charitable contribution, in violation of Section 310.3(a)(4) of the TSR, 16 C.F.R. Part 310.3(a)(4);

B. Causing consumers' telephones to ring repeatedly, and/or engaging consumers repeatedly in telephone conversation with the intent to annoy, abuse, or harass persons at the called number, in violation of Section 310.4(b)(1)(i) of the TSR, 16 C.F.R. Part 310.4(b)(1)(i);

C. Causing billing information to be submitted for payment without the express informed consent of the consumer, in violation of Section 310.4(a)(6) of the TSR, 16 C.F.R. Part 310.4(a)(6);

D. Causing billing information to be submitted for payment when using a payment method other than a credit card or a debit card, without the consumer's express verifiable authorization, in violation of Section 310.3(a)(3) of the TSR, 16 C.F.R. Part 310.3(a)(3);

E. Initiating any outbound telemarketing call to a person's telephone number on the National Do Not Call Registry of persons who do not wish to receive outbound telephone calls to induce the purchase of goods or services, in violation of Section 310.4(b)(1)(iii)(B) of the TSR, 16 C.F.R. Part 310.4(b)(1)(iii)(B), unless:

1. Defendant Abramson or his Representatives have obtained the

1 without any obligation whatsoever to the sender; and

2 B. Sending any communication, including, but not limited to, bills, invoices,
3 reminders, letters, notices, or dunning communications, that in any manner seek to obtain
4 payment for any merchandise shipped without the prior expressed request or consent of the
5 recipient.

6 **IV.**

7 **MONETARY RELIEF**

8 **IT IS FURTHER ORDERED** that:

9 A. Judgment is hereby entered against Defendant Abramson, jointly and
10 severally with the other Defendants named in the First Amended Complaint in this case, in
11 the amount of THIRTEEN MILLION FOUR HUNDRED ELEVEN THOUSAND NINE
12 HUNDRED EIGHTEEN DOLLARS (\$13,411,918); *provided, however*, that this
13 judgment, as to Defendant Abramson, shall be suspended upon receipt by the Commission
14 of the monies as specified in Section IV.B. of this Order.

15 B. First Credit Union, 25 South Arizona Place, Chandler, Arizona, 85225, shall
16 transfer to the Commission the sum of TWENTY-TWO THOUSAND EIGHTY-EIGHT
17 DOLLARS AND THIRTY-SIX CENTS (\$22,088.36) from the accounts ending in 953-2
18 and 662-7. These accounts were established by Defendant Abramson and previously
19 frozen by stipulation of the parties and by this Court's order. David B. Cassidy, Esq. shall
20 transfer to the Commission the sum of SEVEN THOUSAND THREE HUNDRED SIXTY
21 DOLLARS (\$7,360), the amount of Defendant Abramson's 2007 federal and state income
22 tax refunds. These federal and state income tax refund checks were received by Defendant
23 Abramson after the asset freeze was established by preliminary injunction in this action,
24 and have been held by Attorney Cassidy. The funds identified above shall be remitted to
25 the Commission within ten (10) days following the entry of this Order. The payments
26 shall be made to the Commission by certified check(s) or other guaranteed funds payable
27 to the Federal Trade Commission, Financial Management Office, or by wire transfer in
28 accordance with directions provided by the Commission. The check(s) or written

1 confirmation of the wire transfer(s) shall be delivered to: Associate Director, Division of
2 Marketing Practices, 600 Pennsylvania Avenue, N.W., Room 286, Washington, D.C.
3 20580.

4 C. Any and all funds or assets transferred or paid pursuant to Section IV.B of
5 this Order shall be deposited into a fund administered by the Commission or its agent to be
6 used for equitable relief, including, but not limited to, consumer redress and any attendant
7 expenses for the administration of any redress fund. In the event that redress to consumers
8 is wholly or partially impracticable, or any funds remain after redress is completed, the
9 Commission may apply any remaining funds to such other equitable relief (including
10 consumer information remedies) as it determines to be reasonably related to the acts and
11 practices alleged in the First Amended Complaint. Any funds not used for such equitable
12 relief shall be deposited in the United States Treasury as disgorgement. Defendant
13 Abramson shall have no right to contest the manner of distribution or other disposition of
14 funds chosen by the Commission. The Commission in its sole discretion may use a
15 designated agent to administer consumer redress.

16 **V.**

17 **RIGHT TO REOPEN**

18 **IT IS FURTHER ORDERED** that:

19 A. The Commission's agreement to, and the Court's approval of, this Order is
20 expressly premised upon the truthfulness, accuracy, and completeness of Defendant
21 Abramson's deposition testimony of July 8, 2008, and Defendant Abramson's financial
22 statement dated June 26, 2008, and previously submitted by Defendant Abramson to the
23 FTC ("Defendant's Financial Statement"), which contain material information relied upon
24 by the Commission in negotiating and agreeing to the terms of this Order.

25 B. If, upon motion by the Commission, this Court finds that Defendant
26 Abramson has (1) materially misstated, in his deposition testimony or in Defendant's
27 Financial Statement, the value of any asset, (2) made any material misrepresentation or
28 omitted material information concerning his financial condition by failing to disclose any

1 assets that should have been disclosed in his deposition testimony or in Defendant's
2 Financial Statement, or (3) made any other material misstatement or omission in
3 Defendant's Financial Statement or during his deposition testimony, then the suspended
4 judgment entered in Section IV.A. shall become immediately due and payable. The Court,
5 without further adjudication, shall enter a modified judgment holding Defendant
6 Abramson liable to the Commission in the amount of THIRTEEN MILLION FOUR
7 HUNDRED ELEVEN THOUSAND NINE HUNDRED EIGHTEEN DOLLARS
8 (\$13,411,918) for consumer redress, less any amounts turned over to the FTC pursuant to
9 Section IV.B. of this Order and any verified payments for consumer redress made by any
10 of the other Defendants in this action. This amount shall become immediately due and
11 payable, and interest computed at the rate prescribed under 28 U.S.C. § 1961, as amended,
12 shall immediately begin to accrue on the unpaid balance.

13 C. Defendant Abramson agrees that the facts as alleged in the First Amended
14 Complaint filed in this action shall be taken as true without further proof in any
15 bankruptcy case or subsequent civil litigation pursued by the Commission to enforce its
16 rights to any payment or money judgment pursuant to this Order, including but not limited
17 to a nondischargeability complaint in any bankruptcy case. Defendant Abramson further
18 stipulates and agrees that the facts alleged in the First Amended Complaint establish all
19 elements necessary to sustain an action pursuant to, and that this Order shall have
20 collateral estoppel effect for purposes of, Section 523(a)(2)(A) of the Bankruptcy Code, 11
21 U.S.C. § 523(a)(2)(A).

22 D. Defendant Abramson acknowledges and agrees that (1) this monetary
23 judgment is equitable monetary relief, solely remedial in nature, and not a fine, penalty,
24 punitive assessment or forfeiture; (2) any proceedings to lift the stay of the monetary
25 judgment would be in addition to, and not in lieu of, any other civil or criminal remedies
26 as may be provided by law, including any other proceedings that the FTC may initiate to
27 enforce this Order; and (3) all money paid to satisfy the monetary judgment is irrevocably
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1 paid for purposes of settlement between the parties and Defendant Abramson relinquishes
2 all interests, rights and title to such money to the fullest extent permitted by law.

3 E. Should this Order be modified pursuant to this Section V, this Order, in all
4 other respects, shall remain in full force and effect unless otherwise ordered by the Court.
5 Any proceedings instituted under this Section V are in addition to, and not in lieu of, any
6 other civil or criminal remedies as may be provided by law, including any other
7 proceedings that the FTC may initiate to enforce this Order.

8 VI.

9 LIFTING OF ASSET FREEZE

10 **IT IS FURTHER ORDERED** that the freeze against the assets of Defendant
11 Abramson pursuant to the Preliminary Injunction entered by this Court on May 27, 2008,
12 shall be lifted upon entry of this Order. Defendant Abramson further stipulates and agrees
13 to relinquish all interests, rights and title, to the fullest extent permitted by law, to any and
14 all assets of Handicapped & Disabled Workshops, Inc., Handi-Hope Industries, Inc., and
15 HandiShip, LLC.

16 VII.

17 CUSTOMER LISTS

18 **IT IS FURTHER ORDERED** that Defendant Abramson and his Representatives
19 are permanently restrained and enjoined from selling, renting, leasing, transferring, or
20 otherwise disclosing the name, address, telephone number, credit card number, bank
21 account number, e-mail address, or other identifying information of any person who paid
22 money to any of the Defendants at any time prior to the entry of this Order, in connection
23 with the purchase of any products. Provided, however, that Defendant Abramson or his
24 Representatives may disclose such identifying information to a law enforcement agency or
25 as required by any law, regulation, or court order.

26 VIII.

27 COOPERATION WITH FTC COUNSEL

28 **IT IS FURTHER ORDERED** that Defendant Abramson shall, in connection with

1 this action or any subsequent investigations related to or associated with the transactions
2 or the occurrences that are the subject of the FTC's First Amended Complaint, cooperate
3 in good faith with the FTC and appear at such places and times as the FTC shall
4 reasonably request, after written notice, for interviews, conferences, pretrial discovery,
5 review of documents, and for such other matters as may be reasonably requested by the
6 FTC. If requested in writing by the FTC, Defendant Abramson shall appear and provide
7 truthful testimony in any trial, deposition, or other proceeding related to or associated with
8 the transactions or the occurrences that are the subject of the First Amended Complaint,
9 without the service of a subpoena.

10 **IX.**

11 **COMPLIANCE MONITORING**

12 **IT IS FURTHER ORDERED** that, for the purpose of monitoring and
13 investigating compliance with any provision of this Order,

14 A. Within ten (10) days of receipt of written notice from a representative of the
15 Commission, Defendant Abramson shall submit additional written reports, sworn to under
16 penalty of perjury; produce documents for inspection and copying; appear for deposition;
17 and/or provide entry during normal business hours to any business location in Defendant
18 Abramson's possession or direct or indirect control to inspect the business operation;

19 B. In addition, the Commission is authorized to monitor compliance with this
20 Order by all other lawful means, including but not limited to the following:

21 1. obtaining discovery from any person, without further leave of court,
22 using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45;

23 2. posing as consumers and suppliers to: Defendant Abramson,
24 Defendant Abramson's employees, or any other entity managed or controlled in whole or
25 in part by Defendant Abramson, without the necessity of identification or prior notice;
26 and

27 C. Defendant Abramson shall permit representatives of the Commission to
28 interview any employer, consultant, independent contractor, representative, agent, or

1 employee who has agreed to such an interview, relating in any way to any conduct subject
2 to this Order. The person interviewed may have counsel present.

3 ***Provided, however,*** that nothing in this Order shall limit the Commission's lawful
4 use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C.
5 §§ 49, 57b-1, to obtain any documentary material, tangible things, testimony, or
6 information relevant to unfair or deceptive acts or practices in or affecting commerce
7 (within the meaning of 15 U.S.C. § 45(a)(1)).

8 **X.**

9 **COMPLIANCE REPORTING**

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

12 A. For a period of seven (7) years from the date of entry of this Order,

13 1. Defendant Abramson shall notify the Commission of the following:

14 a. Any changes in his residence, mailing addresses, and
15 telephone numbers, within ten (10) days of the date of such change;

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

23 c. Any changes in Defendant Abramson's name or use of any
24 aliases or fictitious names; and

25 2. Defendant Abramson shall notify the Commission of any changes in
26 corporate structure of any business entity that Defendant Abramson directly or indirectly
27 controls, or has an ownership interest in, that may affect compliance obligations arising
28 under this Order, including but not limited to a dissolution, assignment, sale, merger, or

1 other action that would result in the emergence of a successor entity; the creation or
2 dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject
3 to this Order; the filing of a bankruptcy petition; or a change in the corporate name or
4 address, at least thirty (30) days prior to such change, *provided* that, with respect to any
5 proposed change in the corporation about which the Defendant Abramson learns less than
6 thirty (30) days prior to the date such action is to take place, Defendant Abramson shall
7 notify the Commission as soon as is practicable after obtaining such knowledge.

8 B. One hundred eighty (180) days after the date of entry of this Order,
9 Defendant Abramson shall provide a written report to the FTC, sworn to under penalty of
10 perjury, setting forth in detail the manner and form in which he has complied and is
11 complying with this Order. This report shall include, but not be limited to:

12 1. The then-current residence address, mailing addresses, and telephone
13 numbers of Defendant Abramson;

14 2. The then-current employment and business addresses and telephone
15 numbers of Defendant Abramson, a description of the business activities of each such
16 employer or business, and the title and responsibilities of Defendant Abramson, for each
17 such employer or business;

18 3. Any other changes required to be reported under subsection A of this
19 Section; and

20 4. A copy of each acknowledgment of receipt of this Order, obtained
21 pursuant to Section XII.

22 C. For the purposes of this Order, Defendant Abramson shall, unless otherwise
23 directed by the Commission's authorized representatives, mail all written notifications to
24 the Commission to:

25 Associate Director
26 Division of Enforcement
27 Re: FTC v. Handicapped & Disabled Workshops, Case No. 08-0908-PHX-DGC
28 Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580.

1 D. For purposes of the compliance reporting and monitoring required by this
2 Order, the Commission is authorized to communicate directly with Defendant Abramson.

3 **XI.**

4 **RECORD KEEPING**

5 **IT IS FURTHER ORDERED** that, for a period of ten (10) years from the date of
6 entry of this Order, Defendant Abramson and his Representatives in connection with any
7 business where Defendant Abramson is the majority owner of the business or directly or
8 indirectly controls the business, are hereby restrained and enjoined from failing to create,
9 and from failing to retain the following records:

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

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

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

19 D. Complaints and refund requests (whether received directly, indirectly or
20 through any third party) and any responses to those complaints or requests;

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

23 F. All records and documents necessary to demonstrate full compliance with
24 each provision of this Order, including but not limited to, copies of acknowledgments of
25 receipt of this Order, required by Section XII, and all reports submitted to the FTC
26 pursuant to Section X.

1 **XIV.**

2 **COURT'S RETENTION OF JURISDICTION**

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

5 **XV.**

6 **ENTRY OF ORDER**

7 **IT IS FURTHER ORDERED** that, there being no just reason for delay, the Clerk
8 is hereby directed to enter this judgment immediately.

9
10 **STIPULATED AND AGREED TO BY:**

11 /s/ Kathleen Benway
12 KATHLEEN BENWAY
13 GARY L. IVENS
14 Federal Trade Commission
15 600 Pennsylvania Ave, NW, Room H-281
16 Washington, D.C. 20580
17 Phone: (202) 326-2024/(202) 326-3071
18 Facsimile (202) 326-3395
19 Email: kbenway@ftc.gov
givens@ftc.gov

20 *COUNSEL FOR PLAINTIFF*

21 /s/ Joshua D. Abramson
22 JOSHUA D. ABRAMSON

23 *DEFENDANT*

24 /s/ David B. Cassidy
25 DAVID B. CASSIDY
26 Law Offices of David B. Cassidy
27 4356 West Civic Center Plaza
28 Scottsdale, Arizona 85251
(480) 947-7782

COUNSEL FOR DEFENDANT
JOSHUA D. ABRAMSON

29 DATED this 9th day of December, 2008.

30 

31 _____
32 David G. Campbell
33 United States District Judge