

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

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|---|---|--------------------|
| FEDERAL TRADE COMMISSION, |) | |
| |) | |
| Plaintiff, |) | Case No. 09 C 2927 |
| v. |) | Judge Grady |
| |) | |
| TRANSCONTINENTAL WARRANTY, INC. <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | |
| |) | |

STIPULATED FINAL JUDGMENT AND ORDER FOR PERMANENT INJUNCTION

Plaintiff Federal Trade Commission (“FTC” or “Commission”), filed a Complaint for a Permanent Injunction and Other Equitable Relief pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), and 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108, to secure temporary, preliminary, and permanent injunctive relief, rescission or reformation of contracts, restitution, disgorgement of ill-gotten gains, and other equitable relief for Defendants’ acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and in violation of the FTC’s Trade Regulation Rule entitled “Telemarketing Sales Rule” (“TSR”), 16 C.F.R. Part 310.

Plaintiff and Defendants, by and through their attorneys, have agreed to entry of this Stipulated Final Judgment and Order for Permanent Injunction (“Order”) by this Court in order to resolve all claims against Defendants in this action. Plaintiff and Defendants have consented to entry of this Order without trial or adjudication of any issue of law or fact herein.

NOW THEREFORE, the Plaintiff and Defendants, having requested the Court to enter

this Order, and the Court having considered the Order reached between the parties, **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** as follows:

FINDINGS

1. This is an action by the Commission instituted under Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, the Telemarketing Act, U.S.C. §§ 6101-6108, and the TSR, 16 C.F.R. Part 310. Pursuant to these Sections of the FTC Act and the Telemarketing Act, the Commission has the authority to seek the relief contained herein.

2. The Commission's Complaint states a claim upon which relief may be granted under Sections 5(a), 13(b), and 19 of the FTC Act, 15 U.S.C. §§ 45(a), 53(b), and 57b, and Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b).

3. This Court has jurisdiction over the subject matter of this case and personal jurisdiction over the parties.

4. Venue in the United States District Court for the Northern District of Illinois is proper pursuant to 15 U.S.C. § 53(b) and 28 U.S.C. § 1391(b) and (c).

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

6. Defendants, without admitting the allegations set forth in the Commission's Complaint and without any admission or finding of liability thereunder, agree to entry of this Order and the findings that it contains.

7. Defendants waive: (a) all rights to seek judicial review or otherwise challenge or contest the validity of this Order; (b) any claim that they may have against the Commission, its employees, representatives, or agents; (c) all claims under the Equal Access to Justice Act, 28 U.S.C. § 2412, *as amended* by Pub. L. 104-121, 110 Stat. 847, 863-64 (1996); and (d) any rights

to attorney's fees that may arise under said provision of law. The Commission and Defendants shall each bear their own costs and attorney's fees incurred in this action.

8. The Order is in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law.

9. Entry of this Order is in the public interest.

DEFINITIONS

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

1. **"Asset" or "Assets"** means any legal or equitable interest in, right to, or claim to, any real or personal property, including, but not limited to, "goods," "instruments," "equipment," "fixtures," "general intangibles," "inventory," "checks," or "notes," (as these terms are defined in the Uniform Commercial Code), lines of credit, chattels, leaseholds, contracts, mail or other deliveries, shares of stock,, accounts, credits, premises, receivables, funds, and all cash, wherever located.

2. **"Assisting others"** means providing services to any person that include, but are not limited to: (1) performing customer service functions, including, but not limited to, receiving or responding to consumer complaints; (2) formulating or providing, or arranging for the formulation or provision of, any sales script or other marketing material; (3) providing names of, or assisting in the generation of, potential customers; (4) performing or providing marketing or billing services of any kind; (5) acting as an officer or director of a business entity; or (6) providing telemarketing services.

3. **"Individual Defendant"** means Christopher D. Cowart, by whatever other names he may be known.

4. **"Corporate Defendant"** means Transcontinental Warranty, Inc., and its

successors and assigns, as well as any subsidiaries, affiliates, and any fictitious business entities or business names created or used by these entities, or any of them, including, but not limited to, TransAmerica Warranty, Inc.

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

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

7. **“Established business relationship”** means a relationship between the seller and a person based on: (a) the person’s purchase, rental, or lease of the seller’s goods or services or a financial transaction between the person and seller, within the eighteen (18) months immediately preceding the date of the telemarketing call; or (b) the person’s inquiry or application regarding a product or service offered by the seller, within the three (3) months immediately preceding the date of a telemarketing call.

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

9. **“National Do Not Call Registry”** means the National Do Not Call Registry, which is the “do-not-call” registry maintained by the Federal Trade Commission pursuant to 16 C.F.R. § 310.4(b)(1)(iii)(B).

10. **“Outbound telephone call”** means a telephone call initiated by a telemarketer to

induce the purchase of goods or services or to solicit a charitable contribution.

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

12. **“Plaintiff”** means the Federal Trade Commission (“Commission” or “FTC”).

13. **“Seller”** means any person who, in connection with a telemarketing transaction, provides, offers to provide, or arranges for others to provide goods or services to the customer in exchange for consideration, whether or not such person is under the jurisdiction of the Federal Trade Commission.

14. **“Telemarketer”** means any person who, in connection with telemarketing, initiates or receives telephone calls to or from a customer or donor.

15. **“Telemarketing”** means a plan, program, or campaign which is conducted to induce the purchase of goods or services or a charitable contribution, by use of one or more telephones and which involves more than one interstate telephone call. The term does not include the solicitation of sales through the mailing of a catalog which: contains a written description or illustration of the goods or services offered for sale; includes the business address of the seller; includes multiple pages of written material or illustrations; and has been issued not less frequently than once a year, when the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls takes orders only without further solicitation. For purposes of the previous sentence, the term “further solicitation” does not include providing the customer with information about, or attempting to sell, any other item included in the same catalog which prompted the customer’s call or in a substantially similar catalog.

I. PROHIBITED BUSINESS ACTIVITIES

IT IS THEREFORE ORDERED that Defendants, their officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any person, business entity, trust, corporation, partnership, limited liability company, subsidiary, division, or other device, or any of them, in connection with the advertising, marketing, promotion, offering for sale, sale, or provision of any product or service, are hereby permanently restrained and enjoined from:

A. Misrepresenting, or assisting others in misrepresenting, either orally or in writing, expressly or by implication, any material fact, including, but not limited to, that:

1. They are calling from, on behalf of, or are otherwise affiliated with the manufacturer or dealer of the consumer's vehicle;
2. The expiration of the consumer's original vehicle warranty is imminent;
3. They are authorized to, and are, selling warranties that continue or extend the consumer's original warranty from the manufacturer; and
4. They are selling warranties.

B. Engaging in, causing other persons to engage in, or assisting other persons to engage in, violations of the TSR, including, but not limited to:

1. Misrepresenting, either orally or in writing, expressly or by implication, any material fact, including, but not limited to, that:
 - a. They are calling from, on behalf of, or are otherwise affiliated with the manufacturer or dealer of the consumer's vehicle;
 - b. The expiration of the consumer's original vehicle warranty is

imminent;

c. They are authorized to, and are, selling warranties that continue or extend the consumer's original warranty from the manufacturer; and

d. They are selling warranties.

2. Initiating any outbound telephone call to any person at a telephone number on the National Do Not Call Registry unless the seller proves that:

a. The seller has obtained the express agreement, in writing, of such person to place calls to that person. Such written agreement shall clearly evidence such person's authorization that calls made by or on behalf of a specific party may be placed to that person, and shall include the telephone number to which the calls may be placed and the signature of that person; or

b. The seller has an established business relationship with such person and that person has not previously stated that he or she does not wish to receive outbound telephone calls made by or on behalf of the seller.

3. Initiating any outbound telephone call to a person when that person has previously stated that he or she does not wish to receive outbound telephone calls made by or on behalf of either a seller whose goods or services are being offered, or a charitable organization for which a charitable contribution is being solicited.

4. Initiating any outbound telephone call to a telephone number within a given area code when the annual fee for access to the telephone numbers within that area code that are on the National Do Not Call Registry has not been paid by or on behalf of the seller on whose behalf the telephone call is made, unless the telephone call is:

a. a solicitation to induce charitable contributions;

- b. to a business; or
- c. on behalf of a seller who initiates, or causes others to initiate, telephone calls solely to (i) persons who have given the seller their express agreement, in writing and signed, to receive calls from that seller, or (ii) persons who have an established business relationship with that seller pursuant to 16 C.F.R. § 310.2(n);

5. Abandoning, or causing others to abandon, any outbound telephone call to a person by failing to connect the call to a live operator within two seconds of the person's completed greeting, unless the following four conditions are met:

- a. Defendants, their officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise, employ technology that ensures abandonment of no more than three percent of all calls answered by a person, measured per day per calling campaign;

- b. Defendants, their officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise, for each telemarketing call placed, allow the telephone to ring for at least fifteen seconds or four rings before disconnecting an unanswered call;

- c. Whenever a live operator is not available to speak with the person answering the call within two seconds after the person's completed greeting, the seller or telemarketer promptly plays a recorded message that states the name and telephone number of the seller on whose behalf the call was placed; and

- d. Defendants retain records, in accordance with 16 C.F.R. § 310.5

(b)-(d), establishing compliance with the preceding three conditions.

6. Failing to transmit or cause to be transmitted to any caller identification service in use by a recipient of a telemarketing call: (i) the telephone number of the telemarketer making the call, or the telephone number for customer service of the seller on whose behalf the call is made, and, (ii) when made available by the telemarketer's carrier, the name of the telemarketer or seller to any caller identification service; and

7. Failing to disclose truthfully, promptly and in a clear and conspicuous manner the identity of the seller, that the purpose of the call is to sell goods or services, and the nature of the goods or services.

Provided, *however*, that if the Commission promulgates any rule that modifies or supersedes the Telemarketing Sales Rule, in whole or part, Defendants shall comply fully and completely with all applicable requirements thereof, on and after the effective date of any such rule.

II. PERMANENT BAN ON DELIVERING PRERECORDED MESSAGES

IT IS FURTHER ORDERED that Defendants, whether acting directly or through any person, business entity, trust, corporation, partnership, limited liability company, subsidiary, division, or other device, or any of them, are hereby permanently restrained and enjoined from initiating outbound telephone calls delivering prerecorded messages.

III. EQUITABLE MONETARY RELIEF

IT IS FURTHER ORDERED that:

A. Judgment is hereby entered in favor of the Commission, and against Defendants, jointly and severally, for equitable monetary relief, including, but not limited to, consumer redress, in the amount of twenty four million U.S. Dollars (\$24,000,000), the total amount of

consumer injury caused by the activities alleged in the Commission's complaint; *provided, however,* that any amount of this judgment, in excess of any payments made pursuant to Section XIV of this Order, shall be suspended subject to the conditions set forth in Section IV of this Order;

B. All funds paid pursuant to this Order shall be deposited into a fund administered by the Commission or its agent to be used for equitable relief, including, but not limited to, consumer redress, and any attendant expenses for the administration of such equitable relief. Defendants shall cooperate fully to assist the Commission in identifying consumers who may be entitled to redress pursuant to this Order. If the Commission determines, in its sole discretion, that redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the Complaint. Any funds not used for such equitable relief shall be deposited to the United States Treasury as disgorgement. Defendants shall have no right to challenge the Commission's choice of remedies under this Part. Defendants shall have no right to contest the manner of distribution chosen by the Commission. This judgment for equitable monetary relief is solely remedial in nature and is not a fine, penalty, punitive assessment, or forfeiture;

C. In accordance with 31 U.S.C. § 7701, as amended, Defendants are hereby required, unless they already have done so, to furnish to the Commission their respective taxpayer identifying numbers (social security numbers or employer identification numbers), which shall be used for purposes of collecting and reporting on any delinquent amount arising out of the Defendants' relationship with the government. Individual Defendant is further

required, unless he already has done so, to provide the Commission with clear, legible and full-size photocopies of all valid driver's licenses that he possesses, which will be used for reporting and compliance purposes;

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

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

F. Proceedings instituted under this Section are in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including any other proceedings the Commission may initiate to enforce this Order.

IV. RIGHT TO REOPEN

IT IS FURTHER ORDERED that:

A. By agreeing to this Order, Defendants reaffirm and attest to the truthfulness, accuracy, and completeness of the financial statement signed by or on behalf of Defendant Christopher Cowart (dated May 18, 2009), and provided to the Commission, including all attachments and subsequent amendments and corrections thereto. Plaintiff's agreement to this

Order is expressly premised upon the truthfulness, accuracy, and completeness of the Defendants' financial condition, as represented in the financial statement referenced above, which contains material information upon which Plaintiff relied in negotiating and agreeing to the terms of this Order;

B. If, upon motion of the FTC, the Court finds that any Defendant failed to disclose any material asset, materially misrepresented the value of any asset, or made any other material misrepresentation in or omission from his or its financial statement or supporting documents, the suspended judgment entered in Section III.A shall become immediately due and payable (less any amounts already paid). *Provided, however,* that, in all other respects, this Order shall remain in full force and effect, unless otherwise ordered by the Court; and

C. Any proceedings instituted under this Section shall be in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including, but not limited to, contempt proceedings, or any other proceedings that the Commission or the United States might initiate to enforce this Order. For purposes of this Section, Defendants waive any right to contest any of the allegations in the Commission's Complaint.

V. PROHIBITIONS REGARDING CONSUMER INFORMATION

IT IS FURTHER ORDERED that Defendants, and their officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise, are hereby permanently restrained and enjoined from:

A. Disclosing, using, or benefitting from customer information, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or

other financial account), of any person which any Defendant obtained prior to entry of this Order in connection with the sale of motor vehicle service contracts or the initiation of outbound telephone calls that deliver pre-recorded messages; and

B. Failing to dispose of such customer information in all forms in their possession, custody, or control within thirty (30) days after entry of this Order. Disposal shall be by means that protect against unauthorized access to the customer information, such as by burning, pulverizing, or shredding any papers, and by erasing or destroying any electronic media, to ensure that the customer information cannot practicably be read or reconstructed.

Provided, however, that customer information need not be disposed of, and may be disclosed, to the extent requested by a government agency or required by a law, regulation, or court order.

VI. SUSPENSION OF COLLECTION ON ACCOUNTS

IT IS FURTHER ORDERED that Defendants, and their officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise, whether acting directly, or through any trust, corporation, subsidiary, division, or other device, or any of them, are hereby permanently restrained and enjoined from attempting to collect, collecting, or assigning any right to collect payment for Defendants' vehicle service contracts from any consumer who purchased or agreed to purchase vehicle service contracts from any Defendant prior to the entry of the May 14, 2009 Temporary Restraining Order with Asset Freeze and Other Equitable Relief.

VII. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of (i) monitoring and investigating

compliance with any provision of this Order, and (ii) investigating the accuracy of any Defendants' financial statements upon which the Commission's agreement to this Order is expressly premised:

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

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

1. obtaining discovery from any person, without further leave of court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, 45, and 69;

2. having its representatives pose as consumers and suppliers to Defendants, their employees, or any other entity managed or controlled in whole or in part by any Defendant, without the necessity of identification or prior notice; and

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

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

15 U.S.C. § 45(a)(1)).

VIII. COMPLIANCE REPORTING

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

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

1. The Individual Defendant shall notify the Commission of the following:

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

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

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

2. Defendants shall notify the Commission of any changes in structure of any Corporate Defendant or any business entity that any Defendant directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under this Order, including, but not limited to: incorporation or other organization; a dissolution, assignment, sale, merger, or other action; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; or a change in the business name or address, at least thirty (30) days prior to such change, *provided* that, with respect to any

such change in the business entity about which a Defendant learns less than thirty (30) days prior to the date such action is to take place, such Defendant shall notify the Commission as soon as is practicable after obtaining such knowledge.

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

1. For the Individual Defendant:

a. such Defendant's then-current residence address, mailing addresses, and telephone numbers;

b. such Defendant's then-current employment status (including self-employment), including the name, addresses, and telephone numbers of each business that such Defendant is affiliated with, employed by, or performs services for; a detailed description of the nature of the business; and a detailed description of such Defendant's duties and responsibilities in connection with the business or employment; and

c. Any other changes required to be reported under Subsection A of this Section;

2. For all Defendants:

a. A copy of each acknowledgment of receipt of this Order, obtained pursuant to the Section titled "Distribution of Order;" and

b. Any other changes required to be reported under Subsection A of this Section;

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

D. For the purposes of this Order, Defendants shall, unless otherwise directed by the Commission's authorized representatives, send by overnight courier all reports and notifications required by this Order to the Commission, to the following address:

Associate Director for Enforcement
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Room NJ-2122
Washington, DC 20580
RE: *FTC v. Transcontinental Warranty, Inc. and Christopher D. Cowart*
Civil Action 09 C 2927

Provided that, in lieu of overnight courier, Defendants may send such reports or notifications by first-class mail, but only if Defendants contemporaneously send an electronic version of such report or notification to the Commission at: DEBrief@ftc.gov; and

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

IX. COOPERATION WITH FTC COUNSEL

IT IS FURTHER ORDERED that Defendants shall, in connection with this action or any subsequent investigations related to, or associated with, the transactions or the occurrences that are the subject of the FTC's Complaint, cooperate in good faith with the FTC and appear, or cause its officers, employees, representatives, or agents to appear, at such places and times as the FTC shall reasonably request, after written notice, for interviews, conferences, pretrial discovery, review of documents, and for such other matters as may be reasonably requested by the FTC. If requested in writing by the FTC, Defendants shall appear, or cause its officers, employees, representatives, or agents to appear, and provide truthful testimony in any trial, deposition, or other proceeding related to or associated with the transactions or the occurrences

that are the subject of the complaint, without the service of a subpoena.

X. RECORD KEEPING PROVISIONS

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry of this Order, in connection with any business: (1) where a Defendant is the majority owner of the business or directly or indirectly manages or controls the business; and (2) where the business is engaged in, or is assisting others engaged in, the advertising, marketing, promotion, offering for sale, sale, or provision of any product or service to consumers, such Defendant and its or his agents, employees, servants, attorneys, and all other persons in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any person, business entity, trust, corporation, partnership, limited liability company, subsidiary, division, or other device, or any of them, are hereby restrained and enjoined from failing to create and retain the following records:

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

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

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

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

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

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

XI. DISTRIBUTION OF ORDER

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

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

B. Individual Defendant as control person: For any business that an Individual Defendant controls, directly or indirectly, or in which such Defendant has a majority ownership interest, such Defendant must deliver a copy of this Order to: (1) all principals, officers, directors, and managers of that business; (2) all employees, agents, and representatives of that

business who engage in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled “Compliance Reporting.” For current personnel, delivery shall be within five (5) days of service of this Order upon such Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities. For any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled “Compliance Reporting,” delivery shall be at least ten (10) days prior to the change in structure;

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

D. Defendants must secure a signed and dated statement acknowledging receipt of the Order, within thirty (30) days of delivery, from all persons receiving a copy of the Order pursuant to this Section.

XII. ACKNOWLEDGMENT OF RECEIPT OF ORDER

IT IS FURTHER ORDERED that each Defendant, within five (5) business days of receipt of this Order as entered by the Court, must submit to the Commission a truthful sworn statement acknowledging receipt of this Order. An example of such a statement is attached hereto as Attachment A.

XIII. DISSOLUTION OF ASSET FREEZE

IT IS FURTHER ORDERED that the freeze on the Assets of Individual Defendant shall be lifted upon entry of this Order by the court. A financial institution shall be entitled to rely upon a letter from Plaintiff stating that the freeze on the Assets of Individual Defendant has

been lifted.

The freeze against the assets of Corporate Defendant shall remain in effect until such time as the Receiver receives payment of all Court-approved fees and expenses of the Receiver and the Receiver is discharged by the Court.

XIV. RECEIVERSHIP

IT IS FURTHER ORDERED that the appointment of LePetomane XXVI, Inc., not individually but solely in its representative capacity as Receiver, by and through its President, Jay A. Steinberg, not individually but solely in his representative capacity as President of the Receiver, pursuant to the Stipulated Preliminary Injunction entered on May 29, 2009, is hereby continued in full force and effect except as modified by this Section. The Receiver shall complete liquidation of all assets of Corporate Defendant. Upon liquidation of the assets of Corporate Defendant, the Receiver shall submit its final report and application for fees and expenses, and upon approval of the same by the Court, shall pay any remaining funds to the FTC. Upon the Court's approval of the Receiver's final report, and the payment of any remaining funds to the FTC under this Section, the Receivership shall be terminated.

XV. SEVERABILITY

IT IS FURTHER ORDERED that the provisions of this Order are separate and severable from one another. If any provision is stayed or determined to be invalid, the remaining provisions shall remain in full force and effect.

XVI. RETENTION OF JURISDICTION

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

JUDGMENT IS THEREFORE ENTERED in favor of the Plaintiff and against Defendants, pursuant to all the terms and conditions recited above.

IT IS SO ORDERED.

Dated: _____

HONORABLE JOHN F. GRADY
United States District Judge

SO STIPULATED AND AGREED:

David A. O'Toole

DAVID A. O'TOOLE
IRENE I. LIU
Attorneys for Plaintiff
Federal Trade Commission

Christopher D. Cowart

DEFENDANT CHRISTOPHER D. COWART
individually, and on behalf of DEFENDANT
TRANSCONTINENTAL WARRANTY, INC.

Date: 8/31/09

Date: 7.15.2009

APPROVED AS TO FORM:

Bruce E. Reinhart

BRUCE E. REINHART
Attorney for Defendants Transcontinental
Warranty, Inc. and Christopher D. Cowart

Date: 7/16/09

William C. Brown

RECEIVER
LePetomane XXVI, Inc.
Counsel to the Receiver

Date: 8/31/09

ATTACHMENT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

| | | |
|---|---|--------------------|
| FEDERAL TRADE COMMISSION, |) | |
| |) | |
| Plaintiff, |) | Case No. 09 C 2927 |
| v. |) | Judge Grady |
| |) | |
| TRANSCONTINENTAL WARRANTY, INC. <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | |
| |) | |

**AFFIDAVIT ATTESTING TO RECEIPT OF
STIPULATED FINAL JUDGMENT AND ORDER FOR PERMANENT INJUNCTION**

I, _____, being duly sworn, hereby state and affirm as follows:

1. My name is _____. I am a citizen of _____ and am over the age of eighteen. I have personal knowledge of the facts set forth in this Affidavit.

2. I am a Defendant in *FTC v. Transcontinental Warranty, Inc., et al.*, Case No. 09 C 2927 (United States District Court for the Northern District of Illinois). I am also the president of Transcontinental Warranty, Inc., a Defendant in *FTC v. Transcontinental Warranty, Inc., et al.*, Case No. 09 C 2927 (United States District Court for the Northern District of Illinois).

3. My current employer is _____. My current business address is _____ . My current business telephone number is _____ . My current residential address is _____ . My current residential telephone number is _____ .

4. The current business address of Transcontinental Warranty, Inc. is _____ . The current business telephone number of Transcontinental

Warranty, Inc. is _____.

5. On _____, I received a copy of the Stipulated Final
[Date]
Judgment and Order for Permanent Injunction, which was signed by the Honorable John F. Grady and entered by the Court on _____. A true and correct copy of
[Date of entry of the Order]
Order I received is appended to this Affidavit.

6. On _____, _____ received a copy
[Date] [Name of Corporate Defendant]
of the Stipulated Final Judgment and Order for Permanent Injunction, which was signed by the Honorable John F. Grady and entered by the Court on _____.
[Date of entry of the Order]
A true and correct copy of the order it received is appended to this Affidavit.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on [_____] at [_____].
[Date] [City, State or Province, and Country]

CHRISTOPHER D. COWART, individually
and as an officer of TRANSCONTINENTAL
WARRANTY, INC.

State of _____, City of _____

Subscribed and sworn to before me
this ____ day of _____, 2009.

Notary Public
My Commission Expires: