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CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

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CLERK, U.S. DISTRICT COURT
AUG 21 2006
CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FEDERAL TRADE COMMISSION,
Plaintiff,
v.
Enternet Media, Inc., Conspy & Co.,
Inc., Lida Rohbani, Nima Hakimi,
Baback (Babak) Hakimi, Nicholas C.
Albert
Defendants.

CIVIL NO. CV 05-7777-CAS
AJWx

Stipulated Final Order for
Permanent Injunction and
Monetary Judgment As To
Defendants Enternet Media,
Inc., Conspy & Co., Inc., Lida
Rohbani, Nima Hakimi, and
Baback (Babak) Hakimi

23 Plaintiff, the Federal Trade Commission ("FTC" or the "Commission"), filed its
24 complaint against defendants Enternet Media, Inc.; Conspy & Co., Inc.; Lida
25 Rohbani, individually and as an officer of Enternet Media, Inc. and Conspy & Co.,
26 Inc.; Nima Hakimi, individually and as an officer of Enternet Media, Inc. and
27 Conspy & Co., Inc.; and Baback (Babak) Hakimi, individually, doing business as
28 Network One, and as an officer of Enternet Media, Inc. and Conspy & Co., Inc.,

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1 and Nicholas C. Albert for injunctive and other equitable relief in this matter
2 pursuant to Sections 5 and 13(b) of the Federal Trade Commission Act ("FTC
3 Act"), 15 U.S.C. §§ 45(a), 53(b), on November 1, 2005. The Court ordered an *ex*
4 *parte* Temporary Restraining Order on November 1 and 2nd, 2005, and a
5 Preliminary Injunction was entered on November 30, 2005. The Commission and
6 defendants Enternet Media, Inc., Conspy & Co., Inc., Lida Rohbani, Nima Hakimi,
7 and Baback (Babak) Hakimi ("defendants"), by and through their counsel, hereby
8 stipulate to the entry of, and request the Court to enter, this Stipulated Final Order
9 for Preliminary Injunction and Monetary Judgment as to Defendants Enternet
10 Media, Inc., Conspy & Co., Inc., Lida Rohbani, Nima Hakimi, and Baback
11 (Babak) Hakimi ("Order"), to resolve all matters of dispute between them in this
12 action.

13 **IT IS THEREFORE STIPULATED, AGREED, AND ORDERED** as
14 follows:

- 15 1. This Court has jurisdiction over the subject matter of this case, and it
16 has jurisdiction of all parties hereto pursuant to 15 U.S.C. §§ 45(a),
17 53(b), and 28 U.S.C. §§ 1331, 1337(a), and 1345;
- 18 2. Venue is proper as to all parties in the Central District of California
19 pursuant to 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b) and (c);
- 20 3. The defendants' activities are in or affecting "commerce" as that term is
21 defined in Section 4 of the FTC Act, 15 U.S.C. § 44;
- 22 4. The facts that the FTC has stated in its complaint, if true, would state a
23 claim upon which relief may be granted under Sections 5(a) and 13(b) of
24 the FTC Act, 15 U.S.C. §§ 45(a) and 53(b);
- 25 5. The defendants have entered into this Order freely and without coercion,
26 and the defendants acknowledge that they have read the provisions of
27 this Order and are prepared to abide by them;
- 28 6. The undersigned, individually and by and through their counsel, have

1 agreed that the entry of this Order resolves all matters of dispute
2 between them arising from the Complaint in this action, up to the date of
3 entry of this Order. This Order, however, shall have no preclusive effect
4 as to any action brought by any other state or federal law enforcement
5 agency;

6 7. The defendants waive all rights to seek appellate review or otherwise
7 challenge or contest the validity of this Order. The defendants further
8 waive and release any claim they may have against the Commission, its
9 employees, representatives, or agents;

10 8. The defendants agree that this Order does not entitle the defendants to
11 seek or to obtain attorneys' fees as a prevailing party under the Equal
12 Access to Justice Act, 28 U.S.C. § 2412, as amended by Pub. L. 104-
13 121, 110 Stat. 847, 863-64 (1996), and the defendants further waive any
14 rights to attorneys' fees that may arise under said provision of law;

15 9. This order is remedial in nature and no portion of any payments paid
16 herein shall be deemed or construed as payment of a fine, damages,
17 penalty or punitive assessment; and

18 10. Entry of this Order is in the public interest.

19 **ORDER**

20 **DEFINITIONS**

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

22 A. "Assets" means any legal or equitable interest in, right to, or claim to,
23 any real, personal, or intellectual property of any Corporate defendant or
24 Individual defendant, or held for the benefit of any Corporate defendant
25 or Individual defendant, wherever located, including, but not limited to,
26 chattel, goods, instruments, equipment, fixtures, general intangibles,
27 effects, leaseholds, contracts, mail or other deliveries, shares of stock,
28 inventory, checks, notes, accounts, credits, receivables (as those terms

1 are defined in the Uniform Commercial Code), cash, and trusts,
2 including but not limited to any other trust held for the benefit of any
3 Corporate defendant or Individual defendant, any Individual defendant's
4 minor children, or any Individual defendant's spouse.

- 5 B. **"Bar," "Frame" or "Window"** means an enclosed area on a
6 computer's computer screen, usually rectangular in shape.
- 7 C. **"Corporate defendants"** means Enternet Media, Inc., Conspy & Co.,
8 Inc., and their successors, assigns, affiliates, or subsidiaries.
- 9 D. **"Defendants"** means defendants Enternet Media, Inc., Conspy & Co.,
10 Inc., Lida Rohbani (aka Lida Hakimi and Linda Hakimi), Nima Hakimi,
11 and Baback (Babak) Hakimi (aka Bobby Rohbani), and their successors
12 and assigns.
- 13 E. **"Dialer program"** means any computer program that causes a
14 computer's modem to make telephone calls or access services.
- 15 F. **"Document"** is synonymous in meaning and equal in scope to the usage
16 of the term in the Federal Rules of Civil Procedure 34(a), and includes
17 writing, drawings, graphs, charts, Internet sites, Web pages, Web sites,
18 electronic correspondence, including e-mail and instant messages,
19 photographs, audio and video recordings, contracts, accounting data,
20 advertisements (including, but not limited to, advertisements placed on
21 the World Wide Web), FTP Logs, Server Access Logs, USENET
22 Newsgroup postings, World Wide Web pages, books, written or printed
23 records, handwritten notes, telephone logs, telephone scripts, receipt
24 books, ledgers, personal and business canceled checks and check
25 registers, bank statements, appointment books, computer records, and
26 other data compilations from which information can be obtained and
27 translated. A draft or non-identical copy is a separate document within
28 the meaning of the term.

1 G. **“Individual defendants”** means Lida Rohbani, aka Lida Hakimi and
2 Linda Hakimi, Nima Hakimi, Baback (Babak) Hakimi, aka Bobby
3 Rohbani, individually and through any d/b/a.

4 H. **“Plaintiff”** means the Federal Trade Commission.

5 **CONDUCT PROHIBITIONS**

6 **I.**

7 **IT IS THEREFORE ORDERED** that, in connection with marketing,
8 publishing, or distributing any type of software code, file, or content, or assisting
9 and facilitating others in marketing, publishing, or distributing any type of
10 software code, file, or content, the defendants, and those persons in active concert
11 or participation with them who receive actual notice of this Order by personal
12 service or otherwise, are permanently restrained and enjoined from directly or
13 indirectly making, expressly or by implication, any material false or misleading
14 representation, including but not limited to, any representation:

- 15 A. regarding the nature or effect of the software code, file, or content,
- 16 such as any representation that it is innocuous software code, file, or
- 17 content, such as Internet browser upgrade or other computer security
- 18 software, music, song lyric, or cell phone ring tone;
- 19 B. regarding the performance, benefits, efficacy, or features of the
- 20 software code, file, or content; or
- 21 C. regarding the actual cost, or “free” nature, associated with the
- 22 software code, file, or content.

23 **II.**

24 **IT IS FURTHER ORDERED** that, in connection with marketing,
25 publishing, or distributing any software code, file, or content, or assisting and
26 facilitating others in marketing or distributing any software code, file, or content,
27 the defendants, and those persons in active concert or participation with them who
28 receive actual notice of this Order by personal service or otherwise, are

1 permanently restrained and enjoined from, directly or indirectly, publishing,
2 disseminating, distributing, installing, or downloading any software code, file, or
3 content that interferes with a consumer's computer use, including but not limited
4 to any software code, file, or content that:

- 5 A. tracks consumers' Internet activity or collects other personal
6 information;
- 7 B. changes consumers' preferred Internet homepage or other browser
8 settings;
- 9 C. inserts a new toolbar onto consumers' Internet browsers;
- 10 D. inserts a new bar, frame or window onto consumers' browser
11 windows that in turn displays advertisements;
- 12 E. displays numerous "pop up" advertisements on consumers' computer
13 screens during a single computer session, even when consumers'
14 Internet browsers are closed;
- 15 F. installs a dialer program on consumers' computers;
- 16 G. changes a user's "error" page or DNS page;
- 17 H. inserts advertising hyperlinks into third-party webpages; or
18 I. installs other advertising software code, file, or content on
19 consumers' computers.

20 **III.**

21 **IT IS FURTHER ORDERED** that, in connection with marketing,
22 publishing, or distributing any software code, file, or content, the defendants and
23 those persons in active concert or participation with them who receive actual
24 notice of this Order by personal service or otherwise, are permanently restrained
25 and enjoined from providing others with the means and instrumentalities with
26 which to do the following:

- 27 A. to make, directly or indirectly, expressly or by implication, any
28 material false or misleading representation, including but not limited

1 to any representation:

- 2 1. regarding the nature or effect of the software code, file, or
3 content, such as any representation that it is innocuous software
4 code, file, or content, such as Internet browser upgrade or other
5 computer security software, music, song lyric, or cell phone
6 ring tone;
- 7 2. regarding the performance, benefits, efficacy, or features of the
8 software code, file, or content; or
- 9 3. regarding the actual cost, or "free" nature, associated with the
10 software code, file, or content.

11 B. to publish, disseminate, distribute, install, or download any software
12 code, file, or content that interferes with consumers' computer use,
13 including but not limited to any software code, file, or content that:

- 14 1. tracks consumers' Internet activity or collects other personal
15 information;
- 16 2. changes consumers' preferred Internet homepage or other
17 browser settings;
- 18 3. inserts a new toolbar onto consumers' Internet browsers;
- 19 4. inserts a large side "frame" or "window" onto consumers'
20 browser windows that in turn displays advertisements;
- 21 5. displays numerous "pop up" advertisements on consumers'
22 computer screens during a single computer session, even when
23 consumers' Internet browsers are closed;
- 24 6. installs a dialer program on consumers' computers;
- 25 7. changes a user's "error" page or DNS pages;
- 26 8. inserts advertising hyperlinks into third-party webpages; or
- 27 9. installs other advertising software code, file, or content on
28 consumers' computers.

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IV.

IT IS FURTHER ORDERED that, in connection with distributing or advertising, promoting, marketing, offering for sale or license, or selling or licensing, any product or service, the defendants, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are permanently restrained and enjoined from making, or assisting others in making, directly or indirectly, expressly or by implication, any material false or misleading representation.

MONETARY JUDGMENT

V.

IT IS FURTHER ORDERED that:

- A. Judgment in the amount of \$8,500,000.00 (eight million, five hundred thousand) is hereby entered jointly and severally against the defendants.
- B. This judgment shall be suspended, except for the amount of \$2,045,000 (two million, forty-five thousand), which shall be paid by the defendants, as set forth below in Subparagraphs 1-3, to the FTC, the State of California, and the United States Internal Revenue Service/United States Treasury/State of California, from frozen assets as listed in **Attachment A**, and approximately \$140,000 (one hundred forty thousand) in undeposited business checks made payable to the defendants and \$30,000 (thirty thousand) in unsuccessful business wire transfers to the defendants' frozen accounts, all of which shall be relinquished and turned over to the FTC pursuant to Subparagraph 4. As set forth below, of the \$2,045,000 (two million, forty-five thousand), \$1,615,000 (one million, six hundred fifteen thousand) shall be paid to the FTC pursuant to Subparagraph 1; \$250,000 (two hundred fifty thousand) shall be placed in an escrow/trust account

1 pursuant to Subparagraph 2; and \$180,000 (one hundred eighty
2 thousand) shall be placed in an escrow/trust account pursuant to
3 Subparagraph 3.

- 4 1. Within five (5) days after the date of entry of this Order,
5 \$1,615,000 (one million, six hundred fifteen thousand) shall be
6 paid to the Federal Trade Commission by wire transfer in
7 accord with directions provided by the Commission.
- 8 2. After payment to the FTC as set forth in Subparagraph 1,
9 within ten (10) days after the date of entry of this Order, the
10 defendants shall deposit \$250,000 (two hundred fifty thousand)
11 into an interest-bearing escrow account and/or interest-bearing
12 trust account of Procopio, Cory, Hargreaves & Savitch, LLP,
13 for the purpose of settling the civil and criminal actions
14 brought against the defendants by the City Attorney's Office of
15 Los Angeles. The sole signatory on the account shall be
16 Anthony J. Dain, the Escrow Agent, and access to the deposits
17 held in the account shall be solely through the Escrow Agent.
18 No later than 180 days after entry of this Order, all monies held
19 in the escrow/trust account shall be paid to the Commission,
20 *provided however*, that the amount held in escrow/trust and to
21 be paid to the Commission pursuant to this subpart shall be
22 reduced by the lesser of \$250,000 (two hundred fifty thousand)
23 or the amount paid by the defendants to the City Attorney's
24 Office of Los Angeles, in settlement of the civil action entitled
25 The People of the State of California v. Enternet Media, Inc., et
26 al. (BC343197), an action brought against the defendants on
27 behalf of the State of California for violations of the California
28 Business and Professions Code arising out of the same conduct

1 at issue in the Commission's action against the defendants.
2 Any and all criminal fines associated with criminal action
3 brought against the defendants by the City Attorney's Office of
4 Los Angeles shall be payable from this amount.

- 5 3. After payment to the FTC as set forth in Subparagraph 1,
6 within ten (10) days after the date of entry of this Order, the
7 defendants shall deposit \$180,000 (one hundred eighty
8 thousand) into an interest-bearing escrow account and/or
9 interest-bearing trust account of Procopio, Cory, Hargreaves &
10 Savitch, LLP, for the purpose of paying estimated federal and
11 state personal and business income taxes due and owing to the
12 Internal Revenue Service/United States Treasury/State of
13 California as required by law for the year 2005. The sole
14 signatory on the account shall be Anthony J. Dain, the Escrow
15 Agent, and access to the deposits held in the account shall be
16 solely through the Escrow Agent. Within 5 (five) days of any
17 payments and no later than 60 days after entry of this Order, the
18 defendants shall provide written proof to the Federal Trade
19 Commission of all payments from this account to the Internal
20 Revenue Service/United States Treasury/State of California,
21 including copies of cancelled checks and tax returns, in
22 satisfaction of the defendants' tax obligations. The defendants
23 may not seek to have a credit or refund of any taxes paid for tax
24 year 2005. However, if the defendants otherwise obtain a
25 credit or refund of any taxes paid for tax year 2005 in
26 connection with any tax return filed for tax year 2005 or any
27 year after 2005, the defendants shall promptly pay the FTC the
28 amount of such credit or refund, together with any interest the

