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

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

MARK E. SHELTON,

WHOLESALE MARKETING GROUP, LLC,

WHOLESALE MARKETING GROUP, INC.,

JEREMY WILSON, individually and doing business as
PURE HOME AIR PROFITS,

ROBERT M. GOMEZ,

LUIS D. AVILES, and

CARL J. SHELTON, JR.,

Defendants, and

MARIANNE SHELTON,

JULIE SHELTON, and

M. EDWARD SHELTON HYPNOTHERAPY, LLC,

Relief Defendants.

Civil Action No. 05 C 6485

Judge Wayne R. Andersen

Magistrate Judge Arlander
Keys

**STIPULATED FINAL ORDER AND JUDGMENT AS TO DEFENDANTS WHOLESALE
MARKETING GROUP, LLC AND LUIS D. AVILES**

Plaintiff, the Federal Trade Commission ("FTC"), commenced this action on November

15, 2005, by filing its Complaint against defendants Mark E. Shelton, Wholesale Marketing Group, LLC (“WMG”), Jeremy Wilson, individually and doing business as Pure Home Air Profits, Robert M. Gomez, and Luis D. Aviles (“Aviles”). The Complaint alleges that the defendants engaged in deceptive acts or practices in violation of Section 5 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 45, in connection with the marketing and sale of work-at-home business opportunities. On Plaintiff’s motion supported by a memorandum of law, declarations, and other exhibits, the Court issued an *ex parte* temporary restraining order including an asset freeze. On April 26, 2006, the FTC filed its First Amended Complaint against Wholesale Marketing Group, Inc. and Carl J. Shelton, Jr. as additional defendants and against Marianne Shelton, Julie Shelton, and M. Edward Shelton Hypnotherapy, LLC as relief defendants. The FTC and defendants WMG and Aviles, hereby stipulate to the entry of this Final Order and Judgment (“Order”).

FINDINGS

By stipulation of the parties and being advised of the premises, the Court finds:

1. This is an action by the FTC instituted pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b). The First Amended Complaint seeks permanent injunctive relief, rescission of contracts, restitution, and disgorgement of ill-gotten gains for Defendants’ alleged deceptive acts or practices in connection with the marketing and sale of work-at-home business opportunities.
2. The FTC has the authority under Section 13(b) of the FTC Act to seek the relief it has requested, and the First Amended Complaint states a claim upon which relief can be granted against WMG and Aviles.

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3. This Court has jurisdiction over the subject matter of this case and has jurisdiction over WMG and Aviles. Venue in the Northern District of Illinois is proper.
4. The activities of WMG and Aviles, as alleged in the First Amended Complaint, are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
5. The parties stipulate and agree to entry of this Order, without trial or final adjudication of any issue of fact or law, to settle and resolve all matters in dispute arising from the conduct alleged in the First Amended Complaint to the date of entry of this Order. WMG and Aviles do not admit any of the allegations set forth in the First Amended Complaint, other than the jurisdictional facts, merely by stipulating and agreeing to the entry of this Order.
6. WMG and Aviles waive all rights to seek judicial review or otherwise challenge or contest the validity of this Order. WMG and Aviles also waive any claim that they may have held under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action to the date of this Order. Each settling party shall bear its own costs and attorneys' fees.
7. This action and the relief awarded herein are in addition to, and not in lieu of, other remedies as may be provided by law, including both civil and criminal remedies.
8. Entry of this Order is in the public interest.

DEFINITIONS

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

1. "Assisting others" means providing any of the following goods or services to any person or entity: (a) performing customer service functions, including but not limited to

receiving or responding to consumer complaints; (b) formulating or providing, or arranging for the formulation or provision of, any telephone sales script or any other written marketing material; (c) providing names of, or assisting in the generation of, potential customers; (d) performing marketing services of any kind; or (e) acting as an officer or director of a business entity.

2. "Business Venture" means any written or oral business arrangement, however denominated, which consists of the payment of any consideration for:

- (a) the right or means to offer, sell, or distribute goods or services (whether or not identified by a trademark, service mark, trade name, advertising, or other commercial symbol); and
- (b) assistance to any person or entity in connection with or incident to the establishment, maintenance, or operation of a new business or the entry by an existing business into a new line or type of business.

3. "Document(s)" or "record(s)" means:

A. The original or a true copy of any written, typed, printed, electronically stored, transcribed, taped, recorded, filmed, punched, or graphic matter or other data compilations of any kind, including, but not limited to, letters, e-mail or other correspondence, messages, memoranda, interoffice communications, notes, reports, summaries, manuals, optical and magnetic tapes or discs, tabulations, books, records, checks, invoices, work papers, journals, ledgers, statements, returns, reports, schedules, or files; and

B. Any information stored on: any desktop personal computer ("PC") and workstations, laptops, notebooks, and other portable computers, whether assigned to individuals

or in pools of computers available for shared use; home computers used for work-related purposes; backup disks and tapes, archive disks and tapes, and other forms of offline storage, whether stored onsite with the computer used to generate them, stored offsite in another company facility or stored offsite by a third-party, such as in a disaster recovery center; and computers and related offline storage used by WMG's or Aviles' participating associates, which may include persons who are not employees of WMG or Aviles or who do not work on WMG's or Aviles' premises.

4. "Employment opportunity" means any plan, program, product, or service represented to enable a purchaser to earn money through any type of work.

5. "Investment opportunity" means anything, tangible or intangible, that is offered, offered for sale, sold, or traded based wholly or in part on representations, either express or implied, about past, present, or future income, profit, or appreciation.

6. "Work-at-home business opportunity" means any program, plan, product or service represented to enable a participant or purchaser to earn money while working at home.

BAN ON SELLING WORK-AT-HOME BUSINESS OPPORTUNITIES

I. IT IS THEREFORE ORDERED that WMG and Aviles, whether acting directly or through any person or entity, are hereby permanently restrained and enjoined from (A) advertising, marketing, promoting, offering for sale, distributing, or selling any work-at-home business opportunity, and (B) assisting others engaged in the advertising, marketing, promoting, offering for sale, distributing, or selling of any work-at-home business opportunity. Nothing in this Order shall be read as an exception to this paragraph.

PROHIBITION ON MISREPRESENTATIONS

II. IT IS FURTHER ORDERED that WMG and Aviles, and their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from making, expressly or by implication, any false or misleading oral or written statement or representation in connection with the advertising, marketing, promotion, offering for sale, sale, or distribution of any product or service, including but not limited to:

- A. Misrepresenting that consumers are likely to earn a substantial amount of money;
- B. Misrepresenting, expressly or by implication, that consumers will earn a specified amount of money;
- C. Misrepresenting, expressly or by implication, that consumers will not be required to sell any products or services to earn money;
- D. Misrepresenting the income, earnings potential, profits, or sales volume consumers are likely to achieve;
- E. Misrepresenting the income, earnings potential, profits, or sales volume consumers have achieved in the past;
- F. Misrepresenting any fact material to a consumer's decision to purchase any product or service;
- G. Misrepresenting any aspect of the performance, efficacy, nature, or central characteristics of any product or service; and
- H. Assisting others who violate any provision of Subsections A through G of this Section.

COOPERATION WITH FTC COUNSEL

III. IT IS FURTHER ORDERED that WMG and Aviles 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 First Amended Complaint, cooperate in good faith with the FTC and 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, WMG and Aviles shall 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 First Amended Complaint, without the service of a subpoena.

CONSUMER LISTS

IV. IT IS FURTHER ORDERED that:

A. WMG and Aviles and their officers, agents, servants, employees, and attorneys, and those other persons or entities 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:

1. Selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, billing information (any data that enables any person to access another person's account, such as a credit card, checking, savings, share or similar account, utility bill, mortgage loan account, or debit card), e-mail address, or other identifying information of any person who submitted such information to WMG and/or Aviles, at any time prior to entry of this Order, in connection with the purchase of any work-at-home business opportunity; and

2. Using or benefitting from, for commercial purposes, the name, address, telephone number, billing information (any data that enables any person to access another person's account, such as a credit card, checking, savings, share or similar account, utility bill, mortgage loan account, or debit card), e-mail address, or other identifying information of any person who submitted such information to WMG and/or Aviles, at any time prior to entry of this Order, in connection with the purchase of any work-at-home business opportunity; and

B. Within twenty (20) business days after entry of this Order, WMG and Aviles and their officers, agents, servants, and employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, shall destroy all originals and all copies in their possession of all personal or financial information described in subsections A and B of this Section.

MONETARY RELIEF

V. IT IS FURTHER ORDERED that:

A. Harris Trust Savings shall, within ten (10) business days of the date of entry of this Order, transfer to the FTC or its designated agent all funds in frozen accounts held in the name of Luis D. Aviles or Wholesale Marketing Group, LLC;

B. Oxford Bank shall, within ten (10) business days of the date of entry of this Order, transfer to the FTC or its designated agent all funds in frozen accounts held in the name of Luis D. Aviles or Wholesale Marketing Group, LLC;

C. Bank of America shall, within ten (10) business days of the date of entry of this Order, transfer to the FTC or its designated agent all funds in frozen accounts held in the name of Luis D. Aviles or Wholesale Marketing Group, LLC;

D. Any funds received by the FTC pursuant to this Section V of this Order shall be deposited into a fund administered by the FTC or its agent to be used for equitable relief, including but not limited to consumer redress and any attendant expenses for the administration of any redress funds. In the event that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the FTC may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to WMG's and Aviles' practices alleged in the First Amended Complaint. Any funds not used for such equitable relief shall be deposited to the U.S. Treasury as equitable disgorgement. WMG and Aviles shall have no right to challenge the FTC's choice of remedies or the manner of distribution;

E. While WMG and Aviles do not admit any of the facts alleged in the First Amended Complaint other than jurisdictional facts, WMG and Aviles agree that the facts as alleged in the First Amended Complaint shall be taken as true in the event of any subsequent litigation to collect amounts due pursuant to this Order, including but not limited to a nondischargeability complaint in any bankruptcy proceeding;

F. The monetary relief entered pursuant to this Section V is equitable monetary relief, solely remedial in nature, and not a fine, penalty, punitive assessment, or forfeiture;

G. WMG and Aviles acknowledge and agree that any money paid pursuant to this Order is irrevocably paid to the FTC for purposes of settlement between the FTC and WMG and Aviles, and WMG and Aviles relinquish all rights, title, and interest to such money; and

H. WMG and Aviles are hereby required, in accordance with 31 U.S.C. § 7701, to furnish to the FTC any and all tax identification numbers for them, or for any business they own

or control, to the extent they have not already done so. That information shall be used for purposes of collecting and reporting on any delinquent amount arising out of this Order.

ASSET FREEZE

VI. IT IS FURTHER ORDERED that, upon entry of this Order and transfer of the assets set forth in Section V, the freeze of WMG's and Aviles' assets shall be dissolved.

RIGHT TO REOPEN

VII. IT IS FURTHER ORDERED that the FTC's agreement to this Order is expressly premised on the truthfulness, accuracy and completeness of financial statements previously submitted by WMG and Aviles to the FTC on November 30, 2005. If, upon motion by the FTC, the Court finds that the financial statements contain any material misrepresentation or omission, the Court shall enter judgment against WMG and Aviles, in favor of the FTC, in the amount of \$1,493,793.69 (the amount of consumer injury in this case), less (1) any amounts already paid pursuant to Section V of this Order and (2) any amounts paid for or recovered from any other defendant to this action, the entire amount shall become immediately due and payable; *provided, however,* that in all other respects this Order shall remain in full force and effect unless otherwise ordered by the Court; and, *provided further,* that proceedings instituted under this provision would be in addition to, and not in lieu of, any other civil or criminal remedies as may be provided by law, including any other proceedings that the FTC may initiate to enforce this Order. For purposes of this Section VII, WMG and Aviles waive any right to contest any of the allegations in the First Amended Complaint.

WITHHELD MAIL

VIII. IT IS FURTHER ORDERED that:

A. WMG and Aviles shall direct all Commercial Mail Receiving Agencies (“CMRAs”) where WMG and Aviles have maintained an account relating to the subject matter of this Order, including those at 130 Church Street, #125, New York, NY 10007 and 2205 South Wolf Road, #270, Hillside, Illinois 60162, to (1) close such accounts; (2) mark any mail that is addressed to WMG and/or Aviles, or to any name under which WMG and/or Aviles have done business, “Return to Sender” or a similar designation; and (3) return the mail to the sender; and

B. Within ten (10) days after the date of entry of this Order, WMG and Aviles shall provide to the FTC (1) the names of the CMRAs instructed under subsection A of this Section, and (2) all mail, including but not limited to, consumer correspondence, checks and negotiable instruments, and accompanying materials, such as order forms, in the possession of either WMG and Aviles or their counsel pursuant to Section IX of the Temporary Restraining Order entered November 15, 2005.

RECORD KEEPING PROVISIONS

IX. IT IS FURTHER ORDERED that, for a period of seven (7) years from the date of entry of this Order, in connection with any business where they are the majority owner or directly or indirectly control the business, and the business engages in, or assists others engaged in, the advertising, marketing, promotion, offering for sale, sale, or distribution of any employment opportunity, business venture, or investment opportunity, WMG and Aviles and their agents, employees, officers, corporations, successors, and assigns, and those persons and entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, 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, phone 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, indirectly, or through any 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. Copies of each acknowledgment of receipt of this Order required to be obtained pursuant to Section XII of this Order.

COMPLIANCE MONITORING

- X. IT IS FURTHER ORDERED** that, for the purpose of monitoring and investigating compliance with any provision of this Order:
- A. Within ten (10) days of receipt of written notice from a representative of the FTC, WMG and Aviles shall submit additional written reports, sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and/or provide entry during normal business hours to any business location in WMG's and Aviles' possession or direct or

indirect control to inspect the business operation;

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

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, and 45; and
2. posing as consumers and suppliers to: WMG, Aviles, their employees, or any other entity managed or controlled in whole or in part by WMG and Aviles, without the necessity of identification or prior notice.

C. Nothing in this Order shall limit the FTC'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)).

D. WMG and Aviles shall permit representatives of the FTC 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.

COMPLIANCE REPORTING BY WMG AND AVILES

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

- A. For a period of four (4) years from the date of entry of this Order,
 1. Aviles shall notify the FTC of the following:
 - a. Any changes in his residence, mailing addresses, and telephone

- numbers, within ten (10) days of the date of such change;
- b. Any changes in his employment status (including self-employment) within ten (10) days of the date of such change. Such notice shall include the name and address of each business that he is affiliated with, employed by, or performs services for; a statement of the nature of the business; and a statement of his duties and responsibilities in connection with the business;
 - c. Any changes in his name or use of any aliases or fictitious names; and
2. WMG and Aviles shall notify the Commission of any changes in the corporate structure of WMG or any business entity that Aviles directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under this Order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; the filing of a bankruptcy petition; or a change in the corporate name or address, at least thirty (30) days prior to such change, *provided* that, with respect to any proposed change in the corporation about which WMG and Aviles learns less than thirty (30) days prior to the date such action is to take place, WMG and Aviles shall notify the FTC as soon

as is practicable after obtaining such knowledge.

B. One hundred eighty (180) days after the date of entry of this Order, WMG and Aviles shall provide a written report to the FTC, 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 Aviles:
 - a. His then-current residence address, mailing addresses, and telephone numbers;
 - b. His then-current employment and business addresses and telephone numbers, a description of the business activities of each such employer or business, and his title and responsibilities for each such employer or business; and
 - c. Any other changes required to be reported under subsection A of this Section.
2. For WMG and Aviles:
 - a. A copy of each acknowledgment of receipt of this Order, obtained pursuant to Section XII; and
 - b. Any other changes required to be reported under subsection A of this Section.

C. For the purposes of this Order, WMG and Aviles shall, unless otherwise directed

by the FTC's authorized representatives, mail all written notifications to the FTC to:

Associate Director for Enforcement
Federal Trade Commission
600 Pennsylvania Avenue, NW, Room NJ-2122
Washington, DC 20580
Re: FTC v. Shelton, et al. Civil Action No. 05 C 6485 (N.D. Ill.).

D. For purposes of this Order, the FTC is authorized to communicate directly with WMG and Aviles.

DISTRIBUTION OF ORDER BY WMG AND AVILES

XII. IT IS FURTHER ORDERED that, for a period of four (4) years from the date of entry of this Order:

A. WMG must deliver a copy of this Order to all of its principals, officers, directors, and managers. WMG also must deliver copies of this Order to all of its employees, agents, and representatives who engage in conduct related to the subject matter of the Order. For current personnel, delivery shall be within five (5) days of service of this Order upon WMG. For new personnel, delivery shall occur prior to them assuming their responsibilities.

B. Aviles, in connection with any business that he controls, directly or indirectly, or in which he has a majority ownership interest, shall deliver: (1) a copy of this Order to all principals, officers, directors, and managers of that business; and (2) a copy of this Order to all employees, agents, and representatives who engage in conduct related to the subject matter of this Order. For current personnel, delivery shall be within five (5) days of service of this Order upon Aviles. For new personnel, delivery shall occur prior to them assuming their responsibilities.

C. For any business where Aviles is not a controlling person but otherwise engages in, or assists others engaged in, the advertising, promoting, marketing, offering for sale, sale, or distribution of any investment opportunity, business venture, or employment opportunity, he shall deliver a copy of this Order to all principals and managers of such business before engaging in such conduct.

D. WMG and Aviles 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 this Order pursuant to this Section XII.

ACKNOWLEDGMENT OF RECEIPT OF ORDER BY WMG AND AVILES

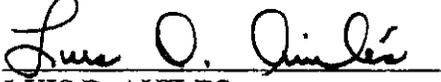
XIII. IT IS FURTHER ORDERED that WMG and Aviles, within five (5) business days of receipt of this Order as entered by the Court, must submit to the FTC a truthful sworn statement acknowledging receipt of this Order.

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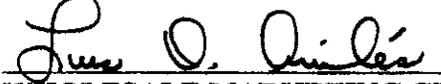
RETENTION OF JURISDICTION

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

SO STIPULATED:



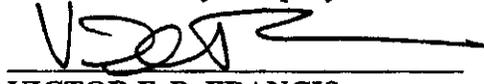
LUIS D. AVILES



WHOLESALE MARKETING GROUP LLC

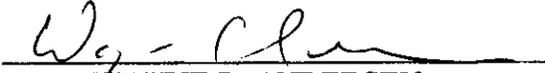


STEVEN M. LADUZINSKY
Attorney for Defendants Luis D. Aviles and Wholesale Marketing Group LLC, a New York Limited Liability Company



VICTOR F. DeFRANCIS
YAA APORI
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, DC 20580
Attorneys for Plaintiff

IT IS SO ORDERED, this 22nd day of December, 2006.



WAYNE R. ANDERSEN
United States District Judge