

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

**CLOSED
CIVIL
CASE**

Case No. 01-4826-CIV-Graham-Turnoff

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

NATIONAL CRAFTERS, CORP.,
a Florida corporation,
and
THOMAS FELIX DIAZ, JR.,

Defendants

FILED by GD D.C.
OCT 30 2002
CLARENCE MADDOX
CLERK U.S. DIST. CT.
S.D. OF FLA. - MIAMI

STIPULATED PERMANENT INJUNCTION & FINAL ORDER

On November 27, 2001, Plaintiff Federal Trade Commission ("Commission") filed a Complaint seeking a permanent injunction and other relief, pursuant to Sections 5(a) and 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a) and 53(b), and a motion for an *ex parte* temporary restraining order with equitable relief, pursuant to Rule 65 of the Federal Rules of Civil Procedure. On November 28, 2001, the Court entered the temporary restraining order against Defendants, National Crafters, Corp. and Thomas F. Diaz, Jr. ("Defendants"). On December 8, 2001, the Court entered the order for the Stipulated Preliminary Injunction. The parties hereby stipulate to the below-stated terms, conditions, and findings of this Stipulated Permanent Injunction and Final Order, as follows:

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FINDINGS

The Court finds that:

1. This Court has jurisdiction over the subject matter of this action and over Defendants.
2. Venue in this district is proper under 28 U.S.C. §§ 1391(b) and (c), and 15 U.S.C. § 53(b);
3. This action was brought pursuant to Sections 5(a) and 13(b) of the Federal Trade Commission Act, 15 U.S.C. §§ 45(a) and 53(b), and states a claim upon which relief may be granted.
4. This Court has the authority pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), to award injunctive and consumer redress and/or disgorgement for alleged unfair or deceptive acts or practices in connection with the marketing and sale of work-at-home products and services;
5. The activities of Defendants, as alleged in the Complaint, were in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44;
6. The parties stipulate and agree to this Order, without trial or adjudication of any issue of fact or law, to settle and resolve all matters in dispute arising from the Complaint to the date of entry of this Order.
7. Defendants do not admit any of the allegations set forth in the Complaint, other than jurisdictional facts.
8. Defendants waive all rights to seek judicial review or otherwise challenge or

new line or type of business.

3. "Consumer" means any person, including any individual, group, unincorporated association, limited or general partnership, corporation or other business entity.

4. "Defendants" means National Crafters, Corp. and Thomas Felix Diaz, Jr., whether acting directly or through any corporation, subsidiary, division, or other device.

5. "Person" means any natural person, organization, or other legal entity including a corporation, partnership, proprietorship, association, cooperative, government agency, or any other group or combination acting as an entity.

6. "Work-at-home opportunity" means any program, plan, product, or service that represents that it enables a participant or purchaser to earn money while working from home.

7. The terms "and" and "or" have both conjunctive and disjunctive meanings.

ORDER

I. PROHIBITED BUSINESS ACTIVITIES

IT IS THEREFORE ORDERED that Defendants, and any entity through which they do business, and their successors, assigns, officers, agents, servants, employees, and those other persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby permanently restrained and enjoined from engaging in, or receiving any remuneration of any kind whatsoever from, holding any ownership interest, share, or stock in, or serving as an officer, director, trustee, general manager of, or consultant or advisor to, any business entity engaged in, or assisting others engaged in, in whole or in part, the advertising, marketing, promoting, offering for sale, or sale of any work-at-home opportunity.

Provided, however, nothing in this Order shall be construed to nullify the prohibitions set forth in Section I.

II. COMPLIANCE WITH § 5 OF THE FTC ACT

IT IS FURTHER ORDERED that, in connection with the advertising, promotion, offering for sale, or sale of any good or service, including, but not limited to business ventures, Defendants and any entity through which they do business, and their successors, assigns, officers, agents, servants, employees, and those other persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, and each such person, whether acting directly or through any corporation, limited liability company, subsidiary, division, or other device, are permanently enjoined and restrained from directly or by implication, making any false or misleading oral or written representation of material fact or engaging in deceptive or misleading acts and practices, including, but not limited to:

- A. Misrepresenting the earnings a consumer is likely to achieve;
- B. Misrepresenting the earnings that consumers have actually achieved;
- C. Misrepresenting that Defendants will provide tools and materials of adequate quantity or quality, or some other type of assistance, to enable the consumer to achieve the represented earnings;
- D. Misrepresenting the typical amount of time a person would need to expend in order to achieve the represented earnings;
- E. Misrepresenting the level of skill that is typical or required to achieve the represented earnings;
- F. Misrepresenting that remuneration is guaranteed to the consumer;

choice of remedies under this Paragraph.

C. In establishing a redress plan, the Commission shall have full and sole discretion to determine the criteria and parameters for participation by injured consumers in a redress program, and may delegate any and all tasks connected with such redress program to any individuals, partnerships, or corporations, and pay the fees, salaries, and expenses incurred thereby in carrying out said tasks from the funds received pursuant to this Order.

D. Defendants further agree that the acts as alleged in the 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 non-dischargeability complaint in any bankruptcy proceeding.

E. The judgment entered pursuant to this Paragraph is equitable monetary relief, solely remedial in nature, and not a fine, penalty, punitive assessment or forfeiture.

V. ASSET FREEZE

IT IS FURTHER ORDERED that upon entry of this Order and the transfer of all assets as required by Paragraph IV, the freeze of Defendants' assets provided for in the Stipulated Preliminary Injunction Order, as modified, shall be lifted.

VI. RIGHT TO REOPEN

IT IS FURTHER ORDERED that within five (5) business days after entry of this Order, Defendants shall submit to the Commission a truthful sworn statement, in the form shown on Appendix A, that shall acknowledge receipt of this Order and shall reaffirm and attest to the truth, accuracy and completeness of the sworn deposition testimony provided by Defendant Diaz on February 20, 2002 and, Defendants' Financial Disclosure Statements. The Commission's

provision of this Order;

B. The Commission is authorized to use representatives posing as consumers and suppliers to Defendants, their employees, or any other entity managed or controlled in whole or in part by them, without the necessity of identification or prior notice; and

C. 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 investigate whether Defendants have violated any provision of this Order or Section 5 of the FTC Act, 15 U.S.C. § 45.

VIII. DISTRIBUTION OF ORDER BY DEFENDANTS

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

A. Provide a copy of this Order to, and obtain a signed and dated acknowledgment of receipt of same from, each officer or director, each individual serving in a management capacity, all personnel involved in responding to consumer complaints or inquiries, and all sales personnel, whether designated as employees, consultants, independent contractors or otherwise, immediately upon employing or retaining any such persons, for any business where

1 any defendant is the majority owner of the business or directly or indirectly manages or controls the business, and where

2. the business is engaged in the marketing of business ventures, or assisting others engaged in these activities.

B. Maintain for a period of three (3) years after creation, and upon reasonable notice,

D. For the purposes of this Order, Defendants shall, unless otherwise directed by the Commission's authorized representatives, mail all written notifications to the

Commission to: Regional Director
Federal Trade Commission
225 Peachtree St., N.E.
Suite 1500
Atlanta, GA 30303

Re: FTC v. Nat'l Crafters

E. For the purposes of this Paragraph, "employment" includes the performance of services as an employee, consultant, or independent contractor; and "employers" include any individual or entity for whom Defendant Diaz performs services as an employee, consultant, or independent contractor.

F. For purposes of the compliance reporting required by this Paragraph, the Commission is authorized to communicate directly with Defendants.

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 (a) any business where any Defendant is the majority owner or otherwise controls the business or (b) the marketing or sale of any business venture, Defendants and their agents, employees, officers, corporations, successors, and assigns, 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 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;

APPENDIX A

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

Case No. 01-4826-CIV-Graham-Turnoff

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FEDERAL TRADE COMMISSION,)	
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Plaintiff,)	
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v.)	AFFIDAVIT OF DEFENDANT
)	THOMAS FELIX DIAZ, JR.
)	
NATIONAL CRAFTERS, CORP.,)	
a Florida corporation,)	
and)	
THOMAS FELIX DIAZ, JR.,)	
)	
)	
Defendants)	
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Thomas Felix Diaz, Jr., being duly sworn, hereby states and affirms as follows:

a. My name is Thomas Felix Diaz, Jr. My current residence address is

_____. I am a citizen of the United States and am over the age of eighteen. I have personal knowledge of the facts set forth in this Affidavit.

b. I am a defendant in FTC v. National Crafters et al. (United States District Court

for the Southern District of Florida).

c. On [date], I received a copy of the [state the full name of the Final Order as it appears on the Order itself], which was signed by the Honorable [name of U.S. District Judge] and entered by the Court on [date of entry of Order]. A true and correct copy of the Order I received is appended to this Affidavit.

d. The sworn deposition testimony I provided on February 20, 2002 and the Financial Disclosure Statements provided by myself and National Crafters, Corp. are truthful, accurate and complete.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on [date], at [city and state].

[Full name of defendant]

State of _____, City of _____

Subscribed and sworn to before me
this _____ day of _____, 200__.

Notary Public

My Commission Expires:

APPENDIX B

On November 27, 2001 the Federal Trade Commission (FTC) filed suit in United States District Court, Southern District of Florida, against National Crafters and its principal, Thomas Felix Diaz, Jr, Case Number 01-4826-CIV-Graham-Turnoff, in regards to violations of the Federal Trade Commission Act. The allegations were that (1) National Crafters had misrepresented the income earnings a consumer could expect to make and that (2) National Crafters had misrepresented that they would provide bracelet-making materials of adequate quantity and quality to make the bracelets. National Crafters has settled this lawsuit with the FTC and has agreed to permanently cease marketing and operating work-at-home opportunities.

[Pursuant to that settlement agreement enclosed find the check/money order that you forwarded to us for the purchase of a bracelet-making kit.]