

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	Case No. 03-CV-00021-RMC
)	
MOUNTAIN VIEW SYSTEMS, LTD., <u>et al.</u> ,)	
)	
Defendants.)	
)	

**STIPULATED FINAL ORDER FOR PERMANENT INJUNCTION AND SETTLEMENT
OF CLAIMS**

The Federal Trade Commission (“FTC”) commenced this civil action on January 7, 2003, pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b). The FTC seeks both permanent injunctive relief and consumer redress for alleged unfair or deceptive acts or practices by Defendants in connection with the marketing of international driving permits and other identification documents. The defendants, as named in the Amended Complaint for Injunction and Other Equitable Relief (“Complaint”), are Mountain View Systems, Ltd., Wheelie International, Ltd., Aladdin Travel, Inc., S.C. Hyacinth S.R.L., Jason Abraham, Caroline Shallon, and Charles Fogel (collectively, “Defendants”). The FTC and defendants Mountain View Systems, Ltd., Wheelie International, Ltd., S.C. Hyacinth S.R.L., Jason Abraham, Caroline Shallon, and Charles Fogel (“Settling Defendants”) hereby stipulate to this Final Order for Permanent Injunction and Settlement of Claims (“Order”).

FINDINGS

By stipulation of the parties, the Court finds as follows:

1. The FTC has the authority under Section 13(b) of the FTC Act to seek the relief it has requested, and the Amended Complaint states a claim upon which relief may be granted against the Settling Defendants.

3. This Court has jurisdiction over the subject matter of this action and has jurisdiction over the Settling Defendants. Venue in the District of Columbia is proper.

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

5. The Settling Defendants deny liability for any of the actions alleged in the Complaint, and this Order does not constitute, and shall not be interpreted to constitute, either an admission by the Settling Defendants of any wrongdoing or a finding by the Court that the Settling Defendants have engaged in any violation of law.

6. The FTC and the Settling Defendants waive all rights to seek judicial review or otherwise challenge or contest the validity of this Order. The Settling Defendants 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. Entry of this Order is in the public interest.

DEFINITIONS

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

A. "International Driving Permit" means any document called an international driving permit, international driver's license or any variation thereof.

B. “Identification Document” means a document made or issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or international quasi governmental organization which, when completed with information concerning a particular individual, is of a type intended or commonly accepted for the purpose of identification of individuals, including, but not limited to, driver’s licenses, birth certificates, social security cards, work permits, identification cards, and passports.

C. “False Identification Document” means any document that could reasonably be confused for an identification document.

D. “Identification Template” means any implement, impression, electronic device or computer hardware or software that is specifically configured or primarily used for making an identification document or false identification document.

E. “Academic Degree” means any document issued or purported to be issued by any college, university, community college, trade or vocational school, high school or other secondary school, or any other educational institution that confers or purports to confer a qualification, records or purports to record success in examinations or successful completion of a course of study, or evidences or purports to evidence that the holder has completed and shown proficiency in a curriculum recognized as necessary to earn the academic degree, whether denominated as a degree, diploma, certificate, or other name.

F. “Academic Verification Materials” means any transcript, letter of recommendation or other document issued or purported to be issued by any college, university, community college, trade or vocational school, high school or other secondary school, or any

other educational institution or any professor, teacher, instructor, dean, or other individual associated therewith, for the purpose of evidencing or confirming any academic degree or that any person has completed, wholly or partially, a particular course of instruction.

G. “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, including, but not limited to, the text of any Internet website, email or other electronic communication; (c) providing names of, or assisting in the generation of, potential customers; (d) performing marketing services of any kind; (e) acting as an officer or director of a business entity; or (f) supplying an international driving permit, identification document, false identification document, identification template, academic degree, academic verification material, or related material or information, whether denoted as a real or novelty item.

ORDER

BAN ON SALE OF IDENTIFICATION DOCUMENTS

I. IT IS THEREFORE ORDERED that the Settling Defendants, whether acting directly or through any person or entity, are permanently restrained and enjoined from (A) marketing, advertising, promoting, offering for sale, distributing, or selling any false identification document, identification template, or related material or information, whether denoted as a real or novelty item, in or from the United States or to any citizen or resident of the United States; and (B) assisting others engaged in the marketing, advertising, promotion, offering for sale, distributing, or selling any false identification document, identification template, or related

material or information, whether denoted as a real or novelty item, in or from the United States or to any citizen or resident of the United States. Nothing in this Order shall be read as an exception to this Section I.

BAN ON SALE OF ACADEMIC DEGREES

II. IT IS FURTHER ORDERED that the Settling Defendants, whether acting directly or through any person or entity, are permanently restrained and enjoined from (A) marketing, advertising, promoting, offering for sale, distributing, or selling any academic degree or academic verification material, whether denoted as a real or novelty item, in or from the United States or to any citizen or resident of the United States; and (B) assisting others engaged in the marketing, advertising, promotion, offering for sale, distributing, or selling any academic degree or academic verification material, whether denoted as a real or novelty item, in or from the United States or to any citizen or resident of the United States; provided, however, that the Settling Defendants shall not be prohibited from securing employment with, working for, or being associated with, any educational institution recognized or licensed by a governmental or religious authority authorized to recognize or license educational institutions. Nothing in this Order shall be read as an exception to this Section II.

PROHIBITED BUSINESS ACTIVITIES

III. IT IS FURTHER ORDERED that, in connection with the advertising, promotion, offer for sale, or sale of any item, product, good, service, investment opportunity, business opportunity, partnership interest, trust interest or other beneficial interest in or from the United States, or to any citizen or resident of the United States, the Settling Defendants and any person or entity through which they do business, and their successors, assigns, officers, agents, servants,

employees, 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 hereby permanently restrained and enjoined from:

A. Misrepresenting or assisting others in misrepresenting, directly or by implication, that any international driving permit or other identification document authorizes consumers to drive legally in the United States or any other country;

B. Misrepresenting or assisting others in misrepresenting, directly or by implication, that consumers who purchase any international driving permit or other identification document may use it to avoid points for traffic violations;

C. Misrepresenting or assisting others in misrepresenting, directly or by implication, that consumers who purchase any international driving permit or other identification document may use it to avoid sanctions for driving with a suspended or revoked government-issued driver's license;

D. Misrepresenting or assisting others in misrepresenting, directly or by implication, that any international driving permit or other identification document can be used in the United States or any other country as an identification document in the same ways a person can use a government-issued photo identification document;

E. Misrepresenting or assisting others in misrepresenting, directly or by implication, that any international driving permit or other identification document has been issued by or under the authority of the United States Government, a State, political subdivision of a State, a foreign government, political subdivision of a foreign government, an international governmental or international quasi governmental organization;

F. Misrepresenting or assisting others in misrepresenting, directly or by implication, any information relating to any holder of any international driving permit or other identification document, including, but not limited to, the identity, name, address, nationality, citizenship, or vital statistic of the holder;

G. Misrepresenting or assisting others in misrepresenting, directly or by implication, that the holder of any academic degree has completed and shown proficiency in a curriculum recognized as necessary to earn the academic degree;

H. Misrepresenting or assisting others in misrepresenting, directly or by implication, that any academic degree or academic verification material has been issued by a college, university, or other educational institution or by any individual associated therewith;

I. Misrepresenting or assisting others in misrepresenting, directly or by implication, that any college, university, or other educational institution issuing any academic degree is accredited;

J. Misrepresenting or assisting others in misrepresenting, directly or by implication, any other fact material to a consumer's decision to purchase any international driving permit or any other identification document, false identification document, identification template, academic degree, academic verification material, or related material or information, whether denoted as a real or novelty item; and

K. Misrepresenting or assisting others in misrepresenting, directly or by implication, any fact material to a consumer's decision to purchase any item, product, good, or service.

CONSUMER LISTS

IV. IT IS FURTHER ORDERED that the Settling Defendants and any person or entity through which they do business, and their successors, assigns, officers, agents, servants, employees, 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 hereafter selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, credit card number, bank account number, e-mail address, or other identifying information of any person who paid any money to any defendant, at any time prior to entry of this Order; *provided, however*, that a Settling Defendant may disclose such identifying information (i) to any third person, with the express written consent of the person whose information is disclosed, (ii) to a law enforcement agency, or (iii) as required or authorized by any law, regulation, or court order.

MONETARY RELIEF

V. IT IS FURTHER ORDERED that:

A. Within five business days of entry of this Order, the Settling Defendants shall cause the transfer of the following assets to the FTC or its designated agent:

1. Franklin Templeton Investments shall transfer to the FTC or its designated agent all cash currently being held in account number 125-12500815581, in the name of Jason Abraham and/or Caroline Shallon;

2. Kinecta Federal Credit Union shall transfer to the FTC or its designated agent all cash currently being held in account numbers 1984060, 991550-01, and 991550-05, in the name of Jason Abraham and/or Caroline Shallon;

3. Apple Bank for Savings shall transfer to the FTC or its designated agent all cash currently being held in account numbers ND-4573004589 and SV-5700001134, in the name of Caroline Shallon;

4. The Settling Defendants shall transfer to the FTC or its designated agent cash in an amount equal to \$57,000 less the amounts transferred to the FTC pursuant to subsections 1, 2, and 3 above;

5. The Settling Defendants shall transfer to the FTC or its designated agent cash in an amount equal to the United States Dollar equivalent (as of the date of entry of this Order) of 528,316.32 New Israeli Shekels, *provided, however*, that such payment shall not be required upon the following: (a) the Settling Defendants owe such amount as severance pay under the laws of Israel (such severance pay known as *Pitzu'eem*), (b) the Settling Defendants make the required *Pitzu'eem* payments on or before five business days after entry of this Order, and (c) the Settling Defendants provide the FTC evidence, in the form of cancelled check(s) or sworn accounting, on or before five business days after entry of this Order, that the required *Pitzu'eem* payments have been made.

B. All funds received by the FTC pursuant to this Section V 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 Defendants' practices alleged in the Complaint. Any funds not used for such equitable

relief shall be deposited to the United States Treasury as equitable disgorgement. The Settling Defendants shall have no right to challenge the FTC's choice of remedies or the manner of distribution under this Section V.

C. The Settling Defendants further agree that the facts as alleged in the Complaint shall be taken as true in the sole event of any subsequent litigation necessary to collect amounts due pursuant to Sections V or VII of this Order, including but not limited to a nondischargeability complaint in any bankruptcy proceeding.

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

E. The Settling Defendants acknowledge and agree that all money paid pursuant to this Order is irrevocably paid to the FTC for purposes of settlement between the FTC and the Settling Defendants, and the Settling Defendants relinquish all rights, title, and interest to such money.

F. The Settling Defendants are each hereby required, in accordance with 31 U.S.C. § 7701, to furnish to the FTC their tax identification numbers, which 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 the transfer of all assets as required by Section V, the freeze of the Settling Defendants' assets shall be dissolved.

RIGHT TO REOPEN

VII. IT IS FURTHER ORDERED that, within five business days after entry of this Order, the Settling Defendants shall submit to the FTC a truthful sworn statement that shall acknowledge receipt of this Order and shall reaffirm and attest to the truth, accuracy and completeness of the financial statements previously submitted to the FTC on January 30, 2003, and July 22, 2003. The FTC's agreement to this Order is expressly premised on the truthfulness, accuracy and completeness of such financial statements. If, upon motion by the FTC, the Court finds that the financial statement of any Settling Defendant contains any material misrepresentation or omission, the Court shall enter judgment against such Settling Defendant, in favor of the FTC, in the amount of five million dollars (\$5,000,000), less any amounts already paid pursuant to Section V of this Order; *provided, however*, that in all other respect 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 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, the Settling Defendants waive any right to contest any of the allegations in the Complaint.

RECORD KEEPING PROVISIONS

VIII. IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Order, defendants Jason Abraham, Caroline Shallon, and Charles Fogel, in connection with any business where (1) such defendant is the majority owner or otherwise controls the business and (2) the business engages in the advertising, promotion, offer for sale, or sale of any item, product, good, service, investment opportunity, business opportunity, partnership interest, trust

interest or other beneficial interest in or from the United States, or to any citizen or resident of the United States, 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;

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 Order required to be obtained pursuant to Section XI of this Order.

COMPLIANCE MONITORING

IX. IT IS FURTHER ORDERED that, for the purpose of monitoring and investigating compliance with any provision of this Order,

A. Within thirty (30) days of receipt of written notice from a representative of the FTC, the Settling Defendants each 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 the United States in its 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;

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

Provided that 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)).

C. The Settling Defendants 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 DEFENDANT

X. 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. Defendants Jason Abraham, Caroline Shallon, and Charles Fogel each shall notify the FTC of the following:

(a) Any changes in his or her mailing addresses and telephone numbers, within thirty (30) days of the date of such change;

(b) Any changes in his or her employment status (including self-employment) within thirty (30) days of the date of such change. Such notice shall include the name and address of each business that he or she is affiliated with, employed by, or performs services for; a statement of the nature of the business; and a statement of his or her duties and responsibilities in connection with the business;

(c) Any changes in his or her name or use of any aliases or fictitious names; and

2. Defendants Mountain View Systems, Ltd., Wheelie International, Ltd., and S.C. Hyacinth S.R.L. each shall notify the FTC of any changes in corporate structure 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 the defendant learns less than thirty (30) days prior to the date such action is to take place, such defendant 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, the Settling Defendants each 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. Any changes required to be reported pursuant to sub-section (A) above;
and
2. A copy of each acknowledgment of receipt of this Order obtained by it pursuant to Section XI of this Order;

C. For the purposes of this Order, the Settling Defendants 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. Mountain View Systems, Case No. 03-CV-0021-RMC (D.D.C.).

D. For purposes of this Order, the FTC is authorized to communicate directly with the Settling Defendants, provided that the FTC provide simultaneously notice of any such communication to the Settling Defendants' counsel of record.

DISTRIBUTION OF ORDER BY DEFENDANT

XI. IT IS FURTHER ORDERED that, for a period of three (3) years from the date of entry of this Order:

A. Defendants Mountain View Systems, Ltd., Wheelie International, Ltd., and S.C. Hyacinth S.R.L. shall deliver a copy of this Order to all principals, officers, directors, managers, employees, agents, and representatives having responsibilities with respect to the subject matter of this Order, and shall secure from each such person a signed and dated statement acknowledging receipt of the Order. Defendants Mountain View Systems, Ltd., Wheelie International, Ltd., and S.C. Hyacinth S.R.L. shall deliver this Order to current personnel within thirty (30) days after the date of service of this Order, and to new personnel within thirty (30) days after the person assumes such position or responsibilities.

B. Defendants Jason Abraham, Caroline Shallon, and Charles Fogel shall deliver a copy of this Order to the principals, officers, directors, managers and employees under his or her control for any business that (a) employs or contracts for personal services from him or her and (b) has responsibilities with respect to the subject matter of this Order. Defendants Jason Abraham, Caroline Shallon, and Charles Fogel shall secure from each such person a signed and dated statement acknowledging receipt of the Order within thirty (30) days after the date of service of the Order or the commencement of the employment relationship.

RETENTION OF RIGHTS

XII. IT IS FURTHER ORDERED that nothing herein shall constitute or be construed or applied as a waiver by any Settling Defendant of all rights otherwise accorded under the United States Constitution.

RETENTION OF JURISDICTION

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

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SO STIPULATED:

GREGORY A. ASHE
VICTOR DEFRANCIS
JAMES REILLY DOLAN
Federal Trade Commission
Attorneys for Plaintiff

JASON ABRAHAM, Defendant

CAROLINE SHALLON, Defendant

CHARLES FOGEL, Defendant

MOUNTAIN VIEW SYSTEMS, LTD., Defendant
By: _____, its _____

WHEELIE INTERNATIONAL, LTD., Defendant
By: _____, its _____

S.C. HYACINTH S.R.L., Defendant
By: _____, its _____

IT IS SO ORDERED, this _____ day of _____, 2003.

ROSEMARY M. COLLYER
UNITED STATES DISTRICT JUDGE