

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

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CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

INTERNATIONAL PRODUCT DESIGN, INC.; THE
INNOVATION CENTER, INC.; NATIONAL IDEA
CENTER, INC.; NEW PRODUCTS OF AMERICA, INC.;
AZURE COMMUNICATIONS, INC. dba LONDON
COMMUNICATIONS, INC.; INTERNATIONAL
LICENSING CORPORATION, INC.; ROBERT N.
WAXMAN; PETER DORAN; DARRELL MORMANDO;
JULIAN GUMPEL; AND GREG WILSON,

Defendants.

Case No. 1:97-cv-01114-AVB

**PLAINTIFF'S MEMORANDUM IN SUPPORT OF ITS EX PARTE MOTION FOR
ORDER TO SHOW CAUSE WHY DEFENDANT JULIAN GUMPEL
AND EIGHT BUSINESS ENTITIES UNDER HIS CONTROL
SHOULD NOT BE HELD IN CONTEMPT FOR VIOLATING
THE STIPULATED ORDER FOR PERMANENT INJUNCTION AND FINAL RELIEF**

Plaintiff, the Federal Trade Commission ("FTC" or "Commission") files this memorandum in support of its motion for an Order to show cause why Julian Gumpel ("Gumpel") and eight entities under his control should not be held in civil contempt for violating the Stipulated Order for Permanent Injunction and Final Relief in this case.¹

¹ In addition to the Motion to Show Cause, the FTC is simultaneously filing the following *ex parte* motions: (1) Motion for a Temporary Restraining Order with Ancillary Equitable Relief, and a Preliminary Injunction, Pending Decision on Plaintiff's Motion to Show Cause Why Julian Gumpel and Eight Business Entities under His Control Should Not Be Held in Contempt; (2) Motion to File a Memorandum for a Temporary Restraining Order Exceeding Page Limitation; (3) Motion to Modify the Permanent Injunction; and (4) Motion to Temporarily

I. INTRODUCTION

The Commission commenced this action on September 14, 1997, against Gumpel and twelve other defendants by filing a complaint pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b). The complaint alleged that Gumpel and his co-defendants engaged in unfair or deceptive acts or practices in violation of the FTC Act, 15 U.S.C. § 45, in connection with their offering of invention promotion services to consumers in exchange for substantial fees.

On November 18, 1998, the Court entered a Stipulated Order for Permanent Injunction and Final Relief ("Stipulated Order") resolving the FTC's case as to Gumpel and several other defendants. The Stipulated Order, *inter alia*, forbids defendants and those with actual notice acting in concert with them, from falsely representing, directly or by implication: the likelihood that defendants' invention promotion services would result in financial gain or that defendants assess the market potential, patentability, technical feasibility, or merit of customers' ideas. The Stipulated Order also requires defendants to disclose to consumers the fact that they do not assess inventions and their track record in commercializing prior inventions.

Since signing the order, Gumpel, operating through eight different corporate and fictitious entities, has violated the core provisions of the Stipulated Order by running an invention promotion business that closely parallels the same fraudulent scheme used by Gumpel and his former co-defendants in the underlying case. Gumpel and the eight business entities ("Contempt

Seal Filings.

Defendants")² sell invention promotion services in two phases, charging consumers approximately \$900 for individualized assessments of proposed inventions and further services ranging from \$5,000 to \$45,000.

Gumpel and his businesses have violated and are violating Section I of the Order by falsely representing that purchase of their invention promotion services is likely to result in financial gain and that they assess the merit, marketability, and patentability of customers' ideas. In addition, Contempt Defendants violate Section II, which requires them to reveal their past success -- or lack thereof -- in promoting other inventions.

II. STATEMENT OF FACTS

A. Original Action.

On September 14, 1997, the FTC filed a complaint against Gumpel and twelve other defendants in *FTC v. International Product Design*, No. 1:97-cv-01114 (E.D. Va. 1997). The complaint charged defendants with violating Section 5 of the FTC Act, 15 U.S.C. § 45, by falsely representing that purchase of their invention promotion services would likely result in financial gain for consumers. FTC 1 ¶¶ 23-25, PX0007.³

On November 18, 1998, the Court entered the Stipulated Order that applied to Gumpel and several codefendants, including Azure Communications, Inc., and London Communications,

² The other eight Contempt Defendants are: Technical Lithographers, Inc., d/b/a Patent & Trademark Institute of America; United Licensing Corp.; International Patent Advisors, Inc.; Datatech Consulting, Inc.; International Product Marketing, Inc.; Unicorp Consulting, Inc.; Azure Communications, Inc.; and London Communications, Inc.

³ The evidentiary documents in the common exhibit books are identified first by exhibit (FTC____) and then by a bates number added to the exhibits beginning with PX0001. Pursuant to Local Rule 7(C), all personal identifiers have been redacted from these exhibits.

Inc.⁴ See FTC 2. The Stipulated Order prohibits these original defendants – and others with notice of the order acting in concert with them – from falsely representing: (1) the likelihood that defendants’ invention promotion services will result in financial gain; (2) defendants’ past success in assisting customers to market their inventions; (3) that defendants assess the market potential, patentability, technical feasibility, or merit of customers’ ideas; (4) that defendants make money from royalties generated by customers’ inventions; and (5) any fact material to a consumer’s decision to purchase invention promotion services. FTC 2, PX0013-14.

Defendants also are required to inform consumers, in their initial contact, that they will receive two copies of a separate Affirmative Disclosure document. *Id.*, PX0014-15. The Affirmative Disclosure, which is to be included in the first written material that consumers receive, must identify, for the preceding three years, the number of contracts the company has signed for invention promotion services; the number of consumers who have signed licensing agreements as a result of the company’s services; and the number of consumers who “received more money than they paid” for the services. *Id.*, PX0024. Defendants must obtain a signed copy of the Affirmative Disclosure from consumers before offering, contracting for, or rendering services. *Id.*, PX0014.

B. Contempt Defendants’ Violative Business Practices.

In the underlying case, Gumpel and the other original defendants marketed their invention promotion business in two phases – a first phase that purported to provide an assessment of an invention’s merit, marketability, and patentability and a second, costlier phase that supposedly

⁴ London Communications, Inc. signed the Stipulated Order as a separate defendant even though the complaint misidentified this entity as a fictional name of defendant Azure Communications, Inc. FTC 2, PX0023; FTC 1 ¶ 12, PX0004.

helped consumers to promote and license their inventions. *See* FTC 1 ¶ 20, PX0006. Today, under the mantle of PTI, Gumpel and the other Contempt Defendants use the same two-phase system to deceptively market their business in violation of the Order.

Specifically, consumers are invited to submit information about their inventions through the website inventorshelpline.com. FTC 18 ¶ 19(b), PX1793; *Id.*, PX2211 (index page of website inviting consumers to submit ideas); FTC 5 ¶ 3, PX0280; FTC 19 ¶ 7(b), PX2383. A consumer who makes a submission online is then called by a PTI telemarketer, who states that the invention has passed an initial screening process and been “approved.” FTC 19 ¶ 7(j), PX2384; *Id.*, PX2662. The PTI telemarketer then urges the consumer to purchase a “Phase I” assessment for \$895 to \$1295. *See* FTC 19 ¶ 7(c), (d), PX2383; *Id.*, PX2669-72; FTC 4 ¶ 5, 0083; *Id.*, PX0101 (describing phases); FTC 3 ¶ ¶ 5-6, PX0027; FTC 18 ¶ 18(e), PX1792; *Id.*, PX2098-101. As discussed below, the assessment is invariably positive and is used to sell the more expensive “Phase II” services, which range in cost from \$5,000 to \$40,000, and purportedly include assistance in patenting and licensing the consumer’s invention. FTC 3 ¶ ¶ 5, 9- 10, 12, 13, PX0027-29.

In selling both phases, Gumpel claims that his purported services will likely result in huge financial gains for consumers. For example, in a recorded telephone conversation, a PTI sales representative told consumer Mark Huxhold that his invention – a plastic holder for flowers or flags, to be placed on grave markers - could make “half a million a year.” FTC 5 ¶ 7, 11, PX0281-83; *Id.*, PX0433; *Id.*, PX0310 (invention description). Similarly, a sales representative assured another consumer that with PTI’s help, he could expect to earn between \$0.50 and \$2 per unit in a market of 35-40 million people for his “Fisherman’s Cooler,” a cooler with

compartments for food and tackle. FTC 13 ¶¶ 10, 12, PX1246, PX1248-49; *Id.*, PX1294-95.

In another instance, Susie Butcher was told that her “phenomenal” invention – which consisted of adding decorations to a hair clipper – could be on the shelves within three months, inducing Butcher to sell her horse to raise \$5,000 for Phase II services. FTC 6 ¶¶ 5, 6, PX0456-57; *Id.*, PX0477-78. Kenneth Jenkins was told that PTI would secure a licensing agreement after representation at a single trade show of his idea for a microwaveable heating pad, FTC 8 ¶¶ 6, 7, PX0656; *Id.*, PX0671, and that he would earn \$5,000 per week in royalties and \$5 million in the first year of sales. *Id.* ¶ 7, PX0656. Michelle Padula purchased \$5,000 in patenting services after she was assured that, once patented, her disposable toilet brush could earn up to \$250,000 every four months in royalties. FTC 10 ¶¶ 7, 8, PX0905-06; *Id.*, PX0927-28. Finally, a PTI telemarketer told an undercover FTC investigator that a proposed bib with an attached dish – an idea that was in fact already patented – could bring in at least \$100,000 a year. FTC 18 ¶¶ 18(c), (e), PX1792; *Id.*, PX2106-07. He stressed that this number was “on the low side.” *Id.* at PX2106-07.

PTI buttresses its earnings claims by emphasizing, in sales literature and telemarketing, that, through its “licensing affiliate” United Licensing, it derives substantial income in royalties from successful consumer inventions. FTC 4 ¶ 5, 13, PX0083, 85; *Id.*, PX0107-09 (depicting licensing agreements); FTC 7 ¶ 8, PX0563; FTC 11 ¶ 7, PX1016; FTC 5 ¶ 11, PX0283; *Id.*, PX0430, 40. In a recorded telephone call, a PTI representative said United Licensing’s royalties were the secret to PTI’s financial success:

[Y]ou know, there’s not a lot of profit in doing these reports. We make our money – United Licensing subsidizes us financially. Once a product has been licensed and sold, then they pay [PTI] and that’s legal, because they’re doing all the work, they do all the

sponsoring and everything else, and our profit, \$10 million last year, was based upon our products at United Licensing.”

FTC 18(e), PX1792; *Id.*, PX2110-11.

PTI also bolsters its earnings claims by prominently featuring items from reputable companies such as Conair’s Cord-Keeper hair dryer and Zelco’s “Itty Bitty Booklight” on its website. In this regard, PTI’s website includes a photograph of these products, a description of their technological advances, and lists pricing information next to PTI’s toll-free number. FTC 18 ¶ 19(b), PX1793; *Id.*, PX2240-41. However, officials with Conair and Zelco state that these inventions were developed by their own employees, that the companies pay no licensing or distribution fees to PTI or United Licensing, and that they did not authorize the promotion of their products on PTI’s website. FTC 15 ¶¶ 6, 7, 9, 10, PX1523-PX1524; FTC 16 ¶¶ 4, 5, PX1528.

The Contempt Defendants’ earnings claims are false. Few, if any, consumers have benefitted financially from Gumpel’s invention promotion services. None of the consumers who provided declarations to the FTC has secured a licensing agreement or profited financially from an invention. *See, e.g.*, FTC 4 ¶ 18, PX0086; FTC 5 ¶ 15, PX0284; FTC 6 ¶ 15, PX0459; FTC 7 ¶ 16, PX0565; FTC 8 ¶ 12, PX0657; FTC 9 ¶ 14, PX0813; FTC 10 ¶ 14, PX0908; FTC 11 ¶ 13, PX1017-18; FTC 12 ¶ 13, PX1154; FTC 13 ¶ 17, PX1250. Moreover, Paul Kokoris, who worked as a sales consultant for PTI from 2001 to 2005, could not identify a single PTI client who made money from his or her invention. FTC 3 ¶¶ 2, 16, PX0027, PX0030. Consumers’ experiences were perhaps best summed up in a May 2006 interview on Good Morning America, when a reporter asked Gumpel whether he knew of any PTI clients who had earned money on an

invention. Gumpel was unable to identify a single consumer who profited from his services, saying only that he would have to “do a great deal of research.” FTC 19 ¶ 6, PX2382; *Id.*, PX2646.

In addition to making false earnings claims, PTI falsely represents that it assesses the merit, marketability, and patentability of inventions. This assessment is supposed to occur at two levels. First, PTI claims that it screens each initial submission and rejects many if not most of them, approving only “viable” proposals that satisfy “strict criteria.” FTC 18 ¶ 19(b), PX1793; *Id.*, PX2211 (stating that “viable submissions” will be forwarded to PTI), PX2287 (“We have strict criteria for which an invention must meet”); *see also* FTC 11 ¶ 3, PX1015; *Id.*, PX1019 (inviting consumer to submit proposal so that PTI can determine if idea is “something to pursue”).⁵ Second, PTI promises to provide an objective, thorough evaluation of inventions to consumers who purchase “Phase I” reports. FTC 19 ¶ 7(i), PX2384; *Id.*, PX2710 (“The Report will provide you with a complete, objective and honest evaluation of your invention idea.”). In fact, both the initial screening and Phase I reports are merely vehicles to further sales.

PTI’s initial “screening” process approves even ideas with obvious flaws. For example, an undercover investigator proposed a “safety” turkey fryer that employed high-pressure water to suppress an oil fire. FTC 19 ¶ 7(c), PX2383; *Id.*, PX3021-PX3022. A PTI representative informed the FTC investigator who pitched the idea that PTI had reviewed and approved the proposal, explaining that “we don’t work with every idea that comes [this] way.” FTC 19 ¶ 7(j),

⁵ For example, a PTI representative told an FTC investigator that PTI “turn[s] down 60 percent of the applications that come in on a weekly basis.” FTC 18 ¶ 18(e), PX1792; *Id.*, PX2110. Similarly, consumer Dallas McClain was told that PTI rejects most initial submissions. FTC 13 ¶ 4, PX1246.

PX2384; *Id.*, PX2662. She elaborated that out of every ten submissions, PTI rejects two or three summarily and gives another three or four “strong precautionary notes, such as possible design or mechanical flaws.” *Id.*, PX2735. Yet PTI identified no such flaws in its screening of the safety turkey fryer.⁶

PTI similarly “approved” the submission of another FTC investigator, who proposed a child’s bib with an attached dish. FTC 18 ¶18 (e), PX1792; *Id.*, PX2133. The PTI salesperson told the investigator his idea was “unique” and likely patentable. *Id.*, PX2110, 18. In fact, the submission had been copied from an existing patent.⁷ *Id.* ¶ 18(c), PX1792.

Consumers who purchase the Phase I report are promised a “complete, objective, and honest evaluation” that will examine ideas “from an *unemotional*, more critical viewpoint.” *See, e.g.*, FTC 4 ¶ 5, PX0083; *Id.*, PX0106 (emphasis in original). In fact, the Phase I report invariably provides a positive assessment. Of 11 Phase I reports obtained by the Commission from consumers, each gave a positive assessment. FTC 19 ¶ 5, PX2382 (summarizing positive

⁶ Only after the undercover investigator purchased a Phase I report for \$895 report did PTI point out, on page 16 of the report, that water is not effective in extinguishing oil fires. FTC 19 ¶ 7(t), PX2385; *Id.*, PX2895.

⁷ PTI representatives claim that Phase I assessments provide a preliminary patent analysis “as extensive and complete as the search that the U.S. Patent and Trademark Office would conduct” before issuing a patent. FTC 10 ¶ 5, PX0904. However, in many instances, the reports fail to identify obviously relevant patents for identical or very similar inventions. For example, the report produced for Michelle Padula’s invention did not identify several relevant patents that were later cited by the U.S. Patent and Trademark Office in rejecting her patent application. *Id.* ¶¶ 7, 12, PX0905, 07; *Id.*, PX0961-78, PX1000-06. PTI’s preliminary patent analysis for Karen and David Butts’ proposal – a padlock cover – yielded a similarly misleading result, failing to identify four existing patents for padlock covers. FTC 4 ¶ 7, 11, PX0083-84; *Id.*, PX0157-71, PX0187.

assessments of portfolios). Former sales consultant Kokoris stated that every report he saw in five years at PTI provided a positive assessment. FTC 3 ¶12, PX0028-29.

These uniformly positive results demonstrate that PTI does not provide a true assessment of inventions. In this regard, Gerald Udell, a professor of marketing and an expert in invention assessment at Missouri State University who has been retained by the Commission, states that only a very small percentage of inventions succeed, and that this percentage is even smaller for the very preliminary “invention ideas” commonly submitted to invention assessment companies. FTC 17 ¶ 9, 12, PX1536-37, PX1541. Thus, any assessment process that always or nearly always recommends further development fails, by definition, to provide an objective evaluation of inventions. Because most inventions are simply not suitable for further development, the fact that all or nearly all of PTI’s reports are positive shows that PTI’s assessments are neither accurate nor the expert appraisal that PTI represents them to be.

Indeed, Dr. Udell reviewed three PTI reports and disagreed with the conclusion in each that further development of the idea was warranted. *Id.* ¶ 13, PX1543. Specifically, he found that PTI’s reports fail to consider the factors most significant to analyzing commonly submitted inventions. *Id.* ¶ 12, PX1540. Rather, Dr. Udell states that the limited market information provided in PTI’s reports is generic data that is irrelevant and even potentially misleading. *Id.* ¶ 10, PX1537 (boilerplate information); *Id.*, PX1783-87 (irrelevant, missing and misleading information in portfolios). The remaining information in the evaluations “appears to be repetitive or to elaborate on what the inventors appear to have supplied to PTI.” *Id.* ¶ 12, PX1539. Thus, the evaluations contained in the reports “appear to be meaningless” and “fall short of meeting their stated purpose” of evaluating invention ideas. *Id.* ¶ 11, PX1538; *Id.* ¶ 13,

PX1543.

Although the Phase I reports fail to provide valid assessments, they do serve PTI's purpose of serving as a launching pad for selling Phase II services, which range in cost from \$5,000 to \$40,000.⁸ FTC 3 ¶¶ 9, 12, PX0029; FTC 8 ¶¶ 7, 8, PX0656 (\$47,000); *Id.*, PX0772 (showing patent cost schedule). Once the Phase I report is issued, either the original salesperson or a "closer" calls to congratulate the consumer on the report's results, claiming PTI has particularly selected the invention for further development. *See, e.g.*, FTC 13 ¶ 9, PX1248; FTC 11 ¶ 6, PX1017; FTC 3 ¶ 11, PX0028; FTC ¶ 7, PX0563. PTI sales representatives then falsely suggest that the consumer's results are extraordinary, by claiming, for example, that they have "a half dozen" Phase I reports with negative results on their desk. FTC 19 ¶ 7(q), PX2385; *Id.*, PX2784-85. In fact, PTI attempts to sell Phase II services to all Phase I purchasers. FTC 3 ¶¶ 12-13, PX0028-29.

A key part of the Phase II sales pitch is PTI's promise that consumers who purchase this phase will receive patenting services and representation at trade shows by PTI's "affiliate," United Licensing. PTI representatives use the "no cost" benefit of trade show representation as an inducement to sell patenting services. FTC 4 ¶¶ 5, 7, 8, PX0083-84; *Id.*, PX093 (showing role of United Licensing); *Id.*, PX0101 (describing United Licensing's "NO COST" services); *Id.*, PX0111 (trade show advertisement); *Id.*, PX0141-42 (describing trade show representation). Specifically, PTI representatives tell consumers it is essential to pay for Phase II immediately so

⁸ Former sales consultant Kokoris stated that the Phase I report's main purpose was to promote sales of Phase II services, FTC 3 ¶ 12, PX0028-29, a point underscored by an internal PTI memo that emphasizes using reports to increase "conversions" to Phase II sales. *Id.*, PX0036.

that their inventions can be included in upcoming trade shows, at which United Licensing will seek licensing agreements on their behalf. FTC 5 ¶¶ 6, 11-12, PX0281, 283; *Id.*, PX0427-30; FTC 4 ¶¶ 7-8, PX0083; FTC 6 ¶ 8, PX0457.

However, after consumers pay for Phase II services, PTI virtually disappears. First, consumers lose the ability to reach any live person at PTI. Indeed, phone messages are not returned. FTC 11 ¶ 8, PX1016-PX1017; FTC 9 ¶ 8, PX0812; FTC 4 ¶ 10, PX0085; FTC 8 ¶ 11, PX0458.

Second, the promise of active trade show representation is not fulfilled. In this regard, PTI or United Licensing often send form letters stating that a particular manufacturer expressed interest in the consumer's invention at a trade show. FTC 7 ¶ 15, PX0565; FTC 9 ¶ 11, PX0813; FTC 10 ¶ 13, PX0907-PX0908; FTC 11 ¶ 11, PX1017; FTC 14 ¶¶ 11, 13-15, PX1361-PX1363. However, consumers who have followed up on these letters report that the manufacturers have no knowledge of – much less interest in – either the invention or PTI/United Licensing. FTC 7 ¶ 15, PX0813; FTC 9 ¶ 12, PX0813; FTC 10 ¶ 13, PX0907-PX0908; FTC 11 ¶ 13, PX1017; FTC 14 ¶¶ 11, 13-15, PX1387-89.

Third, patenting services prove illusory. After consumers pay several thousand dollars for such services, it takes several months – and in some cases years – before consumers are even contacted by an attorney. FTC 9 ¶ 15, PX0813 (two-year wait); FTC 6 ¶ 11, PX0458; FTC 10 ¶¶ 9-10, PX906. When consumers finally hear from an attorney by letter, the attorney usually does not even provide a telephone number. FTC 9 ¶ 15, PX0813; FTC 6 ¶¶ 10-12, PX0458; FTC 10 ¶¶ 9-10, PX0906. Often, consumers learn that their ideas are not unique and have already been patented. *See, e.g.*, FTC 4 ¶¶ 7, 11, 17, PX0083-84, 86; *Id.*, PX0187; FTC 10 ¶¶ 5, 12,

PX0904-05, 07; *Id.*, PX1000-06; FTC 11 ¶ 14, PX1018. Consumers who then complain are told that getting a patent is not PTI's problem. FTC 9 ¶ 8, PX0812.

Significantly, one communication is conspicuously absent from the aggressive sales pitches, both oral and written, made by PTI to consumers: the Affirmative Disclosure required by the Stipulated Order. When FTC investigators made undercover submissions of inventions, PTI neither mentioned the Affirmative Disclosure in telephone conversations, nor did it provide it in materials sent by mail. FTC 18 ¶ 18(g), PX1792; FTC 19 ¶ 7(v), PX2386. Similarly, none of the eleven PTI consumers who provided declarations for this investigation recalled receiving any such disclosure. FTC 4 ¶ 9, PX0084; FTC 5 ¶ 14, PX0283-84; FTC 6 ¶ 17, PX0459; FTC 7 ¶ PX0565; FTC 8 ¶ 11, PX0657; FTC 9 ¶ 10, PX0812; FTC 10 ¶ 15, PX0908; FTC 11 ¶ 9, PX1017; FTC 12 ¶ 12, PX1153-54; FTC 13 ¶ 16, PX1250; FTC 14 ¶ 10, PX1386-87. Moreover, Kokoris, the former sales consultant, states PTI did not provide the required disclosures during the time he worked for PTI, from 2001 through 2005. FTC 3 ¶ 17, PX0017.

The Contempt Defendants' invention promotion scheme is designed to persuade consumers to spend tens of thousands of dollars for worthless services by falsely representing that their ideas have been expertly assessed and have market potential that likely will net them huge profits. In fact, the real money makers are Gumpel and his various corporations. An Experian Business Report indicated that PTI has annual sales of \$7.5 million. FTC 18 ¶ 17, PX1791; *Id.*, PX2057-59. However, bank records indicate even higher revenues. For example, in September 2006, accounts for contempt defendant Datatech Consulting, Inc., d/b/a PTI, ended the month with a balance of more than \$1.6 million. FTC 19 ¶ 2(a)(vi), PX2376; *Id.*, PX2480-87. Gumpel transfers significant funds (often exceeding \$1 million) from this account each

month to another contempt defendant, International Product Marketing, which subsequently forwards the funds to original defendant Azure Communications, Inc. *Id.* ¶¶ 2(a)(iv), 3(a)(v), PX2376, PX2378; *Id.*, PX2410-87, PX2979-85.

C. Parties to Current Action: Contempt Defendants.

1. Julian Gumpel, an original defendant, controls his invention promotion business through various corporate shells, including two original corporate defendants and six other entities. He is president of Contempt Defendants Technical Lithographers, Inc., d/b/a Patent & Trademark Institute (PTI); United Licensing Corp.; International Patent Advisors, Inc.; Datatech Consulting, Inc.; Unicorp Consulting, Inc.; and Azure Communications, Inc., and an officer of contempt defendant International Product Marketing, Inc. Gumpel sets corporate policies, makes personnel decisions, and personally negotiates with consumers in some instances. FTC 3 ¶ 1, PX0027; FTC 12 ¶ 10, PX1153. He applied for trademarks for the website name “inventorshelpline.com” and for the phrase “Free Inventor’s Kit.” FTC 18 ¶ 20, PX1793; *Id.*, PX2373-74.

Gumpel’s most recent misadventure in federal court occurred in *Estate of Mickey Mantle v. Gumpel et al.*, No. 1:04-cv-03575 (S.D.N.Y. 2004), in which the court found that Gumpel had ignored a court order to appear, repeatedly violated the terms of a stipulated order requiring him to turn over documents, and given false testimony about how he acquired a valuable piece of Mickey Mantle memorabilia that turned out to be government property.⁹

⁹ The memorabilia in question was an FBI fingerprint card used in an application to carry a firearm that Mantle filed with the New York Police Department in 1968. Gumpel had attempted to auction off this card for more than \$110,000, but he was forced to return the card to the City of New York after the city filed a lawsuit in state court alleging it was government property. *See City of New York v. Gumpel et al.*, No. 400292/04 (N.Y. Sup. Ct. February 5,

In the Mantle case, Gumpel entered into a stipulated permanent injunction resolving allegations that he had infringed on trademarks by selling Mickey Mantle memorabilia without authorization. *See Estate of Mickey Mantle*, No. 1:04-cv-03575 (S.D.N.Y. 2004), PX0010-47 (complaint), PX1051-65 (stipulated final judgment and writ of permanent injunction). The court subsequently found that Gumpel had repeatedly violated the injunction, “causing much frustration and expense to the plaintiff,” and had also violated other court orders, including an order to appear. *Id.*, slip op. at PX1967-69 (Oct. 14, 2004). Gumpel was ordered to pay \$10,000 in liquidated damages and fees. *Id.* at PX1969. Gumpel testified that he had never read the terms of the permanent injunction he had signed, and that certain records he was supposed to disclose either never existed or were destroyed prior to litigation. *Id.*, hearing trans. at PX1984, PX1993-94 (Sept. 29, 2004). At the conclusion of the hearing, the court stated that it found Gumpel “to be right up there in the court’s roster of liars of top quality.” *Id.* at PX2040.

2. Other Contempt Defendants.

a. Technical Lithographers, Inc., d/b/a Patent & Trademark Institute of America (“PTI”) is a dissolved New York corporation for which Gumpel holds himself out as president. *Id.* ¶ 2, PX1788, PX1840-45. PTI’s name appears throughout the inventorshelpline website and company literature, which includes a “Business Information Report” that identifies Gumpel as president and chief executive officer of PTI and references Dun & Bradstreet Report No. 02-576-5145. *See, e.g., Id.* ¶ 19(b); *Id.*, PX2211-2372 (website); FTC 14 ¶ 6, PX1385-86; *Id.*, PX1395-

2004), FTC 18 ¶ 15, PX1790-91; FTC 18, PX1949-50. At the federal hearing involving his alleged violation of the stipulated judgment, Gumpel claimed he had acquired the fingerprint card from a man he knew only as “Bob.” The court said, “I don’t believe that for a second.” FTC 18 ¶ 15, PX1790-91; *Id.*, PX2043.

1407 (company literature); FTC 5 ¶ 8, PX0282; *Id.*, PX0405-06 (business information sheet).

The referenced Dun & Bradstreet Report identifies PTI as a d/b/a of Technical Lithographers, Inc. FTC 18 ¶ 16, PX1791; *Id.*, PX2047.

b. United Licensing Corporation (“United Licensing”) is a current Nevada corporation. Gumpel is its president, sole officer, and director. *Id.* ¶ 9, PX1789; *Id.*, PX1801-19. PTI’s sales documents make frequent reference to United Licensing, claiming that it is an independent entity responsible for securing agreements with manufacturers. FTC 4 ¶¶ 5, 13, PX0083, 85; *Id.*, PX0093, PX0224-29.

c. International Patent Advisors, Inc. (“IPA”) is a current New York corporation of which Gumpel is president. FTC 18 ¶ 11, PX1790; *Id.*, PX1851-58; FTC 19 ¶ 2(b)(ii)(1), PX2377; *Id.*, PX2396. It regularly receives funds from Azure Communications, Inc. TC 19 ¶ 2(b)(iii), PX2377; *Id.*, PX2523-25. Promotional materials state that after PTI contracts to provide patenting services, PTI forwards the consumer’s information to IPA, which then refers the matter to a patent attorney. FTC 5 ¶¶ 7, 8, PX0281-82; *Id.*, PX360-61, 408.

d. Datatech Consulting, Inc. (“Datatech”) is a defunct Nevada corporation of which Gumpel is president. FTC 18 ¶ 6, PX1789; *Id.*, PX1794-1800, 2976. Consumer checks made payable to PTI are deposited in a bank account for “Data Tech Consulting d/b/a Patent and Trademark Institute.” FTC 19 ¶ 2(a)(iii), PX2375-76; *Id.*, PX2480-87, 2492-2502. PTI consumers also have been instructed to wire payments to this account, for which bank records list Gumpel as the contact. FTC 3 ¶ 19, PX0030; *Id.*, PX 0081; FTC 19 ¶ 2(a)(ii)(3), PX2375; *Id.*, PX2406-09.

e. International Product Marketing, Inc., (“IPM”) is a dissolved New York

corporation of which Gumpel is an officer. FTC 18 ¶ 10, PX1789; *Id.*, PX1846-50, 1864; *Id.* ¶ 14, PX1790; *Id.*, PX1914 (Answer Verification in *Ferrante v. International Product Marketing, Inc. d/b/a Patent and Trademark Institute of America*, Index No. 05-004055 (N.Y. Sup. Ct. April 15, 2005), where Gumpel admits that he is an officer of IPM). Contracts for certain of PTI's services use the name "International Product Marketing Inc. (doing business as) Patent and Trademark Institute of America." *See, e.g.*, FTC 4 ¶ 8, PX0083-84; *Id.*, PX0174; FTC 6 ¶ 8, PX0457; *Id.*, PX0537; FTC 7 ¶ 10, PX0564; *Id.*, PX0639; FTC 10 ¶ 8, PX0905-06; *Id.*, PX0981. Each month, Gumpel wires hundreds of thousands of dollars from a Data Tech/PTI account to one for "Intl Product Marketing Inc. DBA PTI," for which he has sole signatory authority. FTC 19 ¶ 2(a)(iv), PX2376; *Id.*, PX2488-91; *Id.* ¶ 3(a)(i) and (iv), PX2377-78; *Id.*, PX2977.

f. Unicorp Consulting, Inc., d/b/a UNI Corp., ("Unicorp") is a defunct Nevada corporation of which Gumpel is president. FTC 18 ¶ 4, PX1788; *Id.*, PX1870. It is the registrant for PTI's website, inventorshelpline.com. *Id.* ¶ 12, PX1790; *Id.*, PX1880-1881. Gumpel signed a settlement on Unicorp's behalf in *Estate of Mickey Mantle v. Gumpel et al.*, No. 1:04-cv-03575 (S.D. N.Y. July 2, 2004), *Id.* ¶ 15(b), PX1791; *Id.*, PX1954.

g. Azure Communications, Inc., is an original defendant and an active Delaware corporation of which Gumpel is president, secretary and treasurer. *Id.* ¶ 7, PX1789; *Id.*, PX1824-31, 1833-35. Azure receives approximately \$1 million each month in PTI funds, transferred through an account for International Product Marketing, and it pays PTI employees and sales consultants. FTC 19 ¶ 3(b)(iii), PX2380; *Id.*, PX2554-61; *Id.* ¶ 3(b)(vii), PX2380-81; *Id.*, PX3006-17. Azure is also the registrant of inventconnect.com, the domain name used for PTI email. FTC 18 ¶¶ 13(a), 18(f), PX1790, 1792; *Id.*, PX1882-83, PX2064.

h. London Communications, Inc. (“LCI”) is an original defendant and an active Delaware corporation that was originally incorporated as “The Inventor’s Helpline, Inc,” the domain name for PTI’s website, inventorshelpline.com. FTC 18 ¶ 8, PX1789; *Id.*, PX1875-79, PX1832. LCI’s name appears on the return address label of some PTI mailings sent to consumers. FTC 6 ¶ 18, PX0459; *Id.*, PX0561; FTC 10 ¶ 16, PX0908; *Id.*, PX1014. Its checks list the address of the Las Vegas office used by United Licensing. FTC 19 ¶ 3(b)(v), PX2380; *Id.*, PX3000.

III. LAW AND DISCUSSION

“It has long been recognized that federal courts have inherent jurisdiction to protect and enforce their orders and judgments.” *Roadtechs, Inc. v. MJ Hwy. Tech., Ltd.*, 83 F.Supp. 2d 677, 685 (E.D. Va. 2000) (citing *Riggs v. Johnson Co.*, 73 U.S. (6 Wall.) 166, 187 (1867)). As a party to the original action, the Commission may invoke the Court’s order-enforcement power by initiating a proceeding for civil contempt in the same action. *Gompers v. Bucks Stove & Range Co.*, 221 U.S. 418, 444-45 (1911). Once the Commission establishes by clear and convincing evidence that the Contempt Defendants have knowingly violated the Court’s Order, the burden shifts to the Contempt Defendants to produce evidence showing why they were unable to comply with the Order. *United States v. Butler*, 211 F.3d 826, 832 (4th Cir. 2000); *FTC v. Affordable Media*, 179 F.3d 1228, 1239 (9th Cir. 1999).

As shown below in Section III.A, clear and convincing evidence in this case establishes that Contempt Defendants’ scheme violates several provisions of the Permanent Injunction. In addition, as discussed in Section III.B, Contempt Defendants should pay monetary relief for the harm caused by their contumacious conduct.

A. All of the Contempt Defendants are in Contempt.

The Commission has established each of the elements of contempt by clear and convincing evidence. The elements of contempt are:

(1) the existence of a valid decree of which the alleged contemnor had actual or constructive knowledge; (2) . . . that the decree was in the movant's "favor"; (3) . . . that the alleged contemnor by its conduct violated the terms of the decree, and had knowledge (at least constructive) of such violations; and (4) . . . that [the] movant suffered harm as a result.

JTH Tax, Inc. v. H&R Block Eastern Tax Servs., Inc., 359 F.3d 699, 705 (4th Cir. 2004) (quoting *Ashcraft v. Conoco, Inc.*, 218 F.3d 288, 301 (4th Cir. 2000) and *Colonial Williamsburg Found. v. The Kittinger Co.*, 792 F. Supp. 1397, 1405-06 (E.D. Va. 1992)) (alteration in original), *aff'd* 38 F.3d 133 (4th Cir. 1994).

1. Contempt Defendants Have Knowledge of the Order.

Gumpel and the eight business entities that he uses to carry out his invention promotion scheme have notice of the Stipulated Order. Rule 65(d) specifically provides that injunctions are binding on both parties to an action and persons or entities "in active concert or participation with them who receive actual notice of" them. FED. R. CIV. P. 65(d). "Actual notice," however, need not be through personal service. *See id.* (providing that "notice of the order" may be "by personal service or otherwise"). Rather, "actual notice" "is derived from the common law doctrine that a decree of injunction not only binds the parties defendant but also those . . . subject to their control. In essence it is that defendants may not nullify a decree by carrying out prohibited acts through aiders and abettors, although they were not parties to the original proceeding." *Regal Knitwear Co. v. NLRB*, 324 U.S. 9, 14 (1945).

Contempt Defendants have actual notice of and are bound by the Permanent Injunction.

Gumpel, LCI, and Azure have notice because they were signed parties to the Order. *SEC v. Current Fin. Servs., Inc.*, 798 F. Supp. 802, 806 n.11 (D.D.C. 1992) (assuming that parties to the action had notice of its orders). The other six Contempt Defendants are likewise bound because they have notice of the Order through Gumpel, who serves as an officer of each entity.¹⁰ “Where the officer to whom notice is given or by whom knowledge is acquired is in effect the corporation, the notice is generally imputed to the corporation.” WILLIAM MEADE FLETCHER, ET AL., FLETCHER CYCLOPEDIA OF THE LAW OF PRIVATE CORPORATIONS § 809 (perm. ed. rev. vol. 2001); *see also Cablevision Sys. Corp. v. Muneyyirci*, No. 90-2997, 1995 WL 362541 at *3 n1 (E.D.N.Y. Aug. 24, 1990) (holding that firm “had actual notice [of injunction]... by virtue of the fact that the people controlling the corporation had actual knowledge of those orders”); *Chanel Indus., Inc. v. Pierre Marche, Inc.*, 199 F. Supp. 748, 753 (E.D. Mo. 1961) (holding that corporation had knowledge of consent judgment because it had hired the former president of a party to the original proceedings); *see also TMT N. Am., Inc. v. The Magic Touch GMBH*, 57 F. Supp. 2d 586, 590 (N.D. Ill. 1999) (assuming that corporation formed by individual defendant after entry of consent judgment had notice of injunction and could be subject to contempt proceedings).

2. The Permanent Injunction was in the Commission’s Favor.

The terms of the injunction favored the Commission, and the injunction explicitly contemplated that the Commission would be able to invoke this Court’s jurisdiction to ensure compliance with it. Injunctions, even those entered with the consent of all parties, are in a

¹⁰ Indeed, in order to prevent Gumpel from incorporating as a means of avoiding the Order’s terms, Sections I and II expressly bind his “corporations.” FTC 2, PX0013, PX0014.

party's "favor" for purposes of civil contempt when their terms constrain or place requirements on the other party. *Roadtechs*, 83 F. Supp.2d at 685-86 (consent order was in movant's favor because it restrained defendant's behavior in relation to plaintiff); *Colonial Williamsburg Found.*, 792 F. Supp. at 1406 (same).

Here, the injunction specifically prohibits Gumpel from making certain misrepresentations to consumers in marketing invention promotion services or making any other misrepresentation "material to a consumer's decision to purchase invention promotion services." FTC 2, PX0014. The injunction also requires Gumpel to make specific affirmative disclosures to consumers. Moreover, the Order gives the Commission authority to monitor Gumpel's compliance and, if necessary, to invoke this Court's jurisdiction if he violates its terms. Section III of the Order required Gumpel to keep certain records relating to his invention promotion business, and Section V authorized the Commission to review Gumpel's records and interview his employees upon seven days' notice.

Most significantly, Section XI provided that this Court would retain jurisdiction for purposes of enforcement of the Order's terms - specifically contemplating a contempt action by the Commission. In sum, the Permanent Injunction was entered in favor of the Commission with the intent to prevent Gumpel from misleading consumers.

3. Contempt Defendants Have Violated and are Continuing to Violate the Order.

In order to show a "knowing" violation of the Order, the Commission need not show that contempt defendants willfully or intentionally violated its terms. *In re General Motors*, 61 F.3d 256, 258 (4th Cir. 1995) ("Willfulness is not an element of civil contempt."). Instead, all the

Commission need show is that they have violated the order and that they had constructive knowledge of the violations. *Colonial Williamsburg Found.*, 792 F. Supp. at 1405. Constructive knowledge of a violation can be inferred by a contemnor taking affirmative steps in violation of the order. *Omega World Travel, Inc. v. Omega Travel, Inc.*, 710 F. Supp. 169, 170 (E.D. Va. 1989).

As discussed below, Gumpel, using the corporate Contempt Defendants, operates a business that violates three core provisions of the Order. Specifically, Gumpel a) falsely claims that consumers will profit from their invention promotion services, in violation of Section I(1) of the Order; b) falsely claims to evaluate or assess the merit of invention ideas, in violation of Section I(3) of the Order; and c) fails to make the affirmative disclosures required by Section II of the Order. Moreover, Gumpel's associated entities also violate the Order by facilitating his violations.

a) Defendants' Misrepresentations Regarding the Likelihood of Financial Gain to Consumers Violate Section I(1) of the Order.

Section I(1) of the order specifically forbids Gumpel from misrepresenting "the likelihood that [his] invention promotion services will result in financial gain for any customer." As shown in Section II.B above, PTI routinely promises consumers riches if they purchase Gumpel's invention promotion services. For example, a PTI representative told consumer Mark Huxhold that his plastic holder for flags or flowers could make half a million dollars annually. Another representative told an FTC investigator that an invention idea copied from an existing patent could bring in - "on the low side" - one hundred thousand dollars annually. These claims are buttressed by defendants' misrepresentations that their "licensing affiliate," United Licensing,

receives substantial royalties from customers' inventions and that they have successfully licensed products with reputable companies such as Conair and Zelco.

In fact, few, if any, of Gumpel's customers make money from their invention ideas. Former PTI consultant Paul Kokoris cannot identify a single customer "who received a net financial benefit as a result of using PTI's services." FTC 3, ¶ 16; PX0030. Even Gumpel himself could not identify a single successful client when asked in an interview earlier this year.

b) Defendants' False Claims that They Evaluate Invention Ideas Violate Section I(3) of the Order.

Section I(3) of the Stipulated Order prohibits Gumpel from "[f]alsely representing, directly or by implication, that [he] assess[es] or evaluate[s] the market potential, patentability, technical feasibility, or merit of ideas submitted by any customer." As demonstrated in Section II.B above, Gumpel represents that his business initially screens invention submissions for potential merit and, for a fee ranging between approximately \$900 and \$1200, provides more thorough, written evaluations of invention ideas' merit, market potential, and patentability. Gumpel's website claims that it will accept only "viable" invention ideas that meet "strict criteria." In addition, PTI represents it rejects many invention ideas during this immediate screening, claiming that "we don't work with every idea that comes [this] way." FTC 19 ¶ 7(j), PX2384; *Id.*, PX2662. Similarly, PTI's promotional materials represent that the written, Phase I reports will be "complete, objective, and honest evaluation[s]" of a new product idea.

However, PTI actually "approves" virtually all invention ideas submitted by consumers, and the Phase I reports consistently recommend further development of those ideas, regardless of

their merit. An FTC investigator submitted an idea with an obvious flaw: a “safety” turkey fryer that would use water to suppress an oil fire. PTI told the investigator that the idea had been “approved” and that PTI’s screening process would have identified “possible design or mechanical flaws.” Similarly, another investigator was told that his idea - which was copied from an existing patent - was unique and likely patentable.

The written reports likewise are not real assessments or evaluations of invention ideas. While the success rate for invention ideas is less than one percent, PTI approves almost all of the submissions it receives from consumers. Such consistently positive evaluations are, by definition, not true evaluations. In this regard, Dr. Udell reviewed three PTI evaluations and concluded that they are not at all helpful to inventors because they failed to consider critical factors necessary to determining whether an invention idea warrants further development.

c) Defendants are Failing to Make the Affirmative Disclosure Required by Section II of the Order.

Section II of the Stipulated order requires Gumpel to include in the initial materials sent to each consumer “two copies of a separate Affirmative Disclosure Statement regarding the difficulties of invention promotion ... in the form of Appendix A” Stipulated Order, Section II. Appendix A to the Order requires Gumpel to disclose, among other things, the number of customers who have purchased phase I reports from him and the number of customers that have successfully commercialized their inventions.

As discussed in Section II(B) above, none of the eleven declarants nor the two FTC investigators who submitted invention ideas to Gumpel received the affirmative disclosure document required by the Stipulated Order. Moreover, Kokoris confirmed that PTI did not make

the required disclosure during the five years he worked for the company.

d) Gumpel's Business Entities are also Violating the Order.

The eight business entities Gumpel uses to carry out his scheme are also subject to the Order either as original defendants or because they have notice of it and are acting in concert or participation with Gumpel pursuant to Fed. R. Civ. P. 65(d). Moreover, they are in contempt of the Stipulated Order because, at a minimum, they facilitate Gumpel's violation of its core provisions. "[I]t has long been recognized that a nonparty may be held in civil contempt if, and to the extent that, he knowingly aids or abets an enjoined party in transgressing a court order." *Goya Foods, Inc. v. Wallack Mgmt. Co.*, 290 F.3d 63, 75 (1st Cir. 2002).¹¹

As discussed in Section II.C, each of the corporate, Contempt Defendants directly violated the Stipulated Order or facilitated Gumpel's violation of it. PTI and United Licensing are the public face of the fraud, engaging in affirmative misrepresentations that violate the core provisions of the Order. IPA purports to serve as the operation's patenting arm and receives funds from Azure. International Product Marketing contracts with consumers for services that are never provided. Unicorp and Azure support the scheme by providing the website and email domain names used by PTI. Moreover, Azure pays PTI employees. LCI supports the operation through mailings from the New York and Virginia offices. Thus, all Contempt Defendants have engaged in affirmative acts that aid or abet violations of the Stipulated Order.

4. The Commission is Harmed by Defendants' Violations.

¹¹ In *Goya Foods*, the alleged contemnors had facilitated a party's sale of property subject to an asset freeze. The court upheld the finding of contempt against the third parties (including an unrelated purchaser) because they knew of the decree and participated in actions that violated it. *Id.* at 76.

The Commission is harmed by Contempt Defendants' violations because they harm consumers. "Congress established the FTC at least in part 'to protect consumers from economic injuries.'" *FTC v. Kuykendall*, 371 F.3d 745, 753 (10th Cir. 2004) (quoting *FTC v. Febre*, 128 F.3d 530, 536 (7th Cir. 1997)). The Commission is therefore justified in seeking civil contempt for violation of an order that provided for consumer redress and for "ongoing regulation of the defendants' business practices" where those regulations were intended in part to prevent further consumer injury. *Id.* at 753-54; *see also SEC v. Dowdell*, No. 301CV00116, 2002 WL 31248028, at *2 (W.D. Va. Sept. 30, 2002) (holding in civil fraud case that "the fourth element - that movant suffered harm as a result - can be easily disposed of in favor of" the SEC"); *cf. SEC v. Moss*, 644 F.2d 313, 316 (4th Cir. 1981) (affirming district court's grant of public agency's petition for civil contempt against defendant for failure to comply with consent judgment).

B. The Final Contempt Order Should Impose Compensatory Sanctions.

After appropriate contempt proceedings, the Court should enter a Contempt Order that provides monetary relief for the Contempt Defendants' violations of the Permanent Injunction.

Courts may impose sanctions for civil contempt "to coerce obedience to a court order or to compensate the complainant for losses sustained as a result of the contumacy." *In re General Motors Corp.*, 61 F.3d 256, 258 (4th Cir. 1995) (quoting *Connolly v. J.T. Ventures*, 851 F.2d 930, 932 (7th Cir. 1988)); *Wagner v. Bd. of Educ.*, 340 F. Supp.2d 603, 619 (D. Md. 2004).

Because a civil contempt action is "instituted and tried as a part of the main cause," *Gompers v. Buck's Stove and Range Co.*, 221 U.S. 418, 445 (1911), the Commission's contempt proceeding is part of its underlying action against the Defendant under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b). The equitable remedies available to the Commission under a contempt

proceeding are, therefore, similar to those available in a Section 13(b) action. *McGregor v. Chierico*, 206 F.3d 1378, 1387-88 (11th Cir. 2000) (FTC case); *see also Kuykendall*, 371 F.3d at 763 (FTC can seek sanctions on behalf of injured consumers following a after proving a violation of a Permanent Injunction). These remedies include consumer redress, disgorgement, and rescission of contracts. *FTC v. H.N. Singer, Inc.*, 668 F.2d 1107, 1112 (9th Cir. 1982); *Colonial Williamsburg Found.*, 792 F. Supp. at 1407 (“[A] disgorging of profits is warranted as a means of deterring future violations.”). While civil contempt must be proven with clear and convincing evidence, monetary relief for that contempt need only be proven by a preponderance of the evidence. *In re General Motors Corp.*, 110 F.3d 1003, 1018 (4th Cir. 1997).

Here, consumers have been defrauded of thousands of dollars as a result of Contempt Defendants’ Order violations. They should be compensated for the harm caused by Contempt Defendants’ contumacious behavior. In addition, the millions of dollars that the Contempt Defendants derived from their violations should be disgorged. They should not profit from their Order violations.¹² Furthermore, monetary relief should be entered jointly and severally since each defendant is responsible for the repeated Order violations. *NLRB v. AFL-CIO*, 882 F.2d 949, 955 (5th Cir. 1989) (“Where ... parties join together to evade a judgment, they become jointly and severally liable for the amount of damages resulting from the contumacious conduct.”); *Colonial Williamsburg Found.*, 792 F. Supp. at 1406 (holding contempt defendants jointly and severally liable because all defendants had actively violated consent judgment).

¹² In FTC actions, evidence of a defendant’s widespread misrepresentations creates a presumption that all of the defendant’s customers relied on the misrepresentations. *McGregor v. Chierico*, 206 F.3d 1378, 1388 (11th Cir. 2000) (“Proof of individual reliance by each purchasing customer is not a prerequisite to the provision of equitable relief needed to redress fraud.”); *FTC v. Figgie Int’l Inc.*, 994 F.2d 595, 605 (9th Cir. 1993) (same).

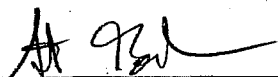
V. CONCLUSION

WHEREFORE, the Commission requests that the Court enter the proposed Order to Show Cause.

Respectfully submitted,

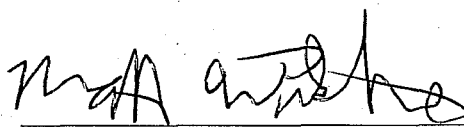
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