

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

FEDERAL TRADE COMMISSION,	)	
	)	
Plaintiff,	)	
v.	)	Case No. 1:08-cv-00493-TSE-BRP
	)	
MICHAEL S. FLEISHER,	)	
	)	
Defendant.	)	

**(Proposed)**  
**STIPULATED ORDER FOR PERMANENT INJUNCTION**

On May 16, 2008, plaintiff Federal Trade Commission (“FTC” or “Commission”), commenced this action by filing its Complaint against defendant Michael S. Fleisher (“Fleisher”). The Complaint alleges that Fleisher engaged in unfair or deceptive acts or practices in violation of Section 5 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 45, and seeks a permanent injunction and other equitable relief pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b).

The Commission previously filed a contempt proceeding against Fleisher in *FTC v. Int’l Product Design*, Case No. 1:97-cv-01114-GBL-TCB (E.D. Va.) (the “Contempt Action”). On August 24, 2007, the Court entered an Order for Monetary Relief against Fleisher in the Contempt Action, in the amount of \$59,682,958. Fleisher filed a notice of appeal of the judgment, *FTC v. Fleisher*, No. 07-1980 (4th Cir.) (“Appellate Action”).

On September 20, 2007, Fleisher filed a petition for relief under Chapter 7 of the Bankruptcy Code in the Bankruptcy Court for the District of Nevada, Case No, 07-16003-mkn.

("Fleisher Bankruptcy Action"). On December 21, 2007, the FTC filed an adversary proceeding against Fleisher seeking an order from the Bankruptcy Court determining that the judgment entered against him in the Contempt Action is excepted from discharge under Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A). *FTC v. Fleisher*, Adv. No. 07-01236-mkn (Bankr. D, Nev.) ("Nondischargeability Action").

The Commission and Fleisher have agreed to entry of this Stipulated Order for Permanent Injunction ("Stipulated Order" or "Order"). Fleisher has agreed to entry of this Stipulated Order without trial or adjudication of any issue of law or fact herein. The Commission and Fleisher have requested the Court to enter this Stipulated Order.

Being advised of these premises, the Court accordingly finds:

(A) The Court has jurisdiction over the subject matter of this case and jurisdiction over Fleisher. Venue in the Eastern District of Virginia is proper, and the Complaint states a claim upon which relief may be granted against Fleisher under Sections 5 and 13(b) of the FTC Act, 15 U.S.C. §§ 45, 53(b);

(B) The Commission has the authority under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), to seek the relief it has requested;

(C) The Complaint states a claim upon which injunctive relief may be granted against Fleisher under Sections 5(a) and 13(b), 5 U.S.C. §§ 45(a), 53(b). The Complaint seeks injunctive relief for alleged unfair or deceptive acts or practices by Fleisher in connection with offering consumers, in exchange for substantial fees, purported services related to research, invention assessment, patenting, marketing, and/or invention promotion services;

(D) Fleisher's activities as alleged in the Complaint are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44;

(E) Fleisher waives all rights to seek judicial review or otherwise challenge or contest the validity of this Stipulated Order. Fleisher also waives any claim he may have held under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action;

(F) This action and the relief warranted herein are in addition to, and not in lieu of, other remedies as may be provided by law, including both civil and criminal remedies;

(G) The Commission's action against Fleisher is not stayed by 11 U.S.C. § 362(a)(1), (2), (3), or (6) because it is an exercise of the Commission's police or regulatory power as a governmental unit pursuant to 11 U.S.C. § 362(b)(4) and thus falls within an exemption from the automatic stay;

(H) This Stipulated Order does not affect any provision of the Order for Monetary Relief entered by the United States District Court for the Eastern District of Virginia on August 24, 2007 in *FTC v. International Product Design*, Case No. 1:97-cv-01114-GBL-TCB (E.D. Va.), which remains in full force and effect; and

(I) Entry of this Stipulated Order is in the public interest.

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:**

**DEFINITION**

For purposes of this Stipulated Order, the following definition shall apply:

“Invention promotion services” shall refer to any business activity that purports to assist inventors in promoting, marketing, commercializing, evaluating, or patenting their invention ideas.

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**I. PROHIBITION AGAINST PARTICIPATING  
IN INVENTION PROMOTION SERVICES**

**IT IS HEREBY ORDERED** that Fleisher is permanently restrained and enjoined from participating in any manner or capacity whatsoever, directly or indirectly, in concert with others, individually, or through any business entity or other device, in advertising, promoting, offering for sale, or selling invention promotion services.

**II. PROHIBITION AGAINST MISREPRESENTATIONS**

**IT IS FURTHER ORDERED** that Fleisher, his officers, agents, servants, employees, and those persons or entities in active concert or participation with Fleisher who receive actual notice of this Stipulated Order by personal service or otherwise, in connection with the advertising, promoting, offering for sale, or selling of any goods or services are hereby permanently restrained and enjoined from making or assisting others in making, expressly or by implication, any material misrepresentation, including, but not limited to, misrepresenting:

- (A) The likelihood that purchasing goods or services will result in financial gain for any customer;
- (B) Past success in providing goods and services;
- (C) Any aspect of a refund policy or service contract;
- (D) That the FTC has endorsed, authorized, or approved sales materials or sales practices; or
- (E) The terms, effect, or purpose of this Stipulated Order.

### III. COMPLIANCE MONITORING

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

- (A) Within ten (10) days of receipt of written notice from a representative of the Commission, Fleisher 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 Fleisher's possession or direct or indirect control to inspect the business operation;
- (B) In addition, the Commission 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 Fleisher, his employees, or any entity managed or controlled in whole or in part by him, without the necessity of identification or prior notice;
- (C) Fleisher shall permit representatives of the Commission 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.

*Provided, however,* that nothing in this Stipulated 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 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)).

#### **IV. COMPLIANCE REPORTING**

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

- (A) For a period of five (5) years from the date of entry of this Order,
  - (1) Fleisher shall notify the Commission of the following:
    - (a) Any changes in his residence, mailing addresses, and telephone numbers within ten (10) days of the date of such change;
    - (b) Any changes in his employment status (including self-employment) and any change in the ownership of Fleisher in any business entity, within ten (10) days of the date of such change. Such notice shall include the name and address of each business that Fleisher is affiliated with, employed by, creates or forms, or perform services for; a statement of the nature of the business; and a statement of Fleisher's duties and responsibilities in connection with the business or employment; and
    - (c) Any changes in Fleisher's name or use of any aliases or fictitious names;
  - (2) Fleisher shall notify the Commission of any changes in the corporate structure of any business entity that he directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under this Order, including but not limited to a dissolution,

assignment, sale, merger, or other action that would result in the emergence of a successor entity; 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 Fleisher learns less than thirty (30) days prior to the date such action is to take place, he shall notify the Commission as soon as is practicable after obtaining such knowledge.

(B) One hundred eighty (180) days after the date of entry of this Order, and annually on such date for five (5) years thereafter, Fleisher shall provide a written report to the FTC, sworn to under penalty of perjury, setting forth in detail the manner and form in which he has complied and is complying with this Order. This report shall include, but not be limited to:

- (1) Fleisher's then-current residence address, mailing addresses, and telephone numbers;
- (2) Fleisher's then-current employment and business addresses and telephone numbers, a description of the business activities of each such employer or business, and his title and responsibilities of Fleisher for each such employer or business;
- (3) Any other changes required to be reported under Paragraph A of this Section; and

- (4) A copy of each acknowledgment of receipt of this Order, obtained pursuant to Section VI.
- (C) For the purposes of this Stipulated Order, Fleisher shall, unless otherwise directed by the Commission's authorized representatives, mail all written notifications to the Commission to:
- Associate Director for Enforcement  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
NJ-2122  
Washington, D.C. 20580  
Re: FTC v. Fleisher, Civil Action No. 1:08-cv-00493-TSE-BRP.
- (D) For purposes of the compliance reporting and monitoring required by this Order, the Commission is authorized to communicate directly with Fleisher.

#### V. RECORD KEEPING PROVISIONS

**IT IS FURTHER ORDERED** that, for a period of eight (8) years from the date of entry of this Stipulated Order, Fleisher; any business of which he is the majority owner or which he otherwise controls, and its agents, employees, corporations, successors, and assigns; and those persons in active concert or participation with Fleisher 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) All records and documents necessary to demonstrate full compliance with each provision of this Stipulated Order, including but not limited to, copies of acknowledgments of receipt of this Order, required by Section VI, and all reports submitted to the FTC pursuant to Section IV.B.

#### **VI. DISTRIBUTION OF ORDER BY DEFENDANT**

**IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of entry of this Stipulated Order, Fleisher shall deliver copies of the Order as directed below:

- (A) For any business that Fleisher controls, directly or indirectly, or in which Fleisher has a majority ownership interest, Fleisher must deliver a copy of this Stipulated Order to all principals, officers, directors, and managers of that business. Fleisher must also deliver copies of this Order to all employees, agents, and representatives of that business who engage in conduct related to the subject matter of the Order. For current personnel, delivery shall be within five (5) days

of service of this Order upon Fleisher. For new personnel, delivery shall occur prior to them assuming their responsibilities.

- (B) For any business in which Fleisher is not a controlling person of a business but otherwise engages in conduct related to the subject matter of this Order, Fleisher must deliver a copy of this Order to all principals and managers of such business before engaging in such conduct.
- (C) Fleisher must secure a signed and dated statement acknowledging receipt of the Stipulated Order, within thirty (30) days of delivery, from all persons receiving a copy of the Order pursuant to this Section.

#### **VII. ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANT**

**IT IS FURTHER ORDERED** that Fleisher, within five (5) business days of receipt of this Stipulated Order as entered by the Court, must submit to the Commission a truthful sworn statement acknowledging receipt of the Order.

#### **VIII. RESOLUTION OF RELATED MATTERS**

**IT IS FURTHER ORDERED** that:

- (A) Within ten (10) days of entry of this Order, Fleisher shall sign and submit for filing to the FTC the Stipulation of Dismissal attached hereto as Appendix A, providing for dismissal of the Appellate Action and for each party to bear its own costs and attorneys' fees. The FTC shall countersign and file the Stipulation of Dismissal before the Fourth Circuit Court of Appeals. Fleisher agrees that filing the Stipulation of Dismissal will resolve all litigation in the Appellate Action.

- (B) Within ten (10) days of the date of entry of this Order, Fleisher shall sign and submit for filing to the FTC the Stipulation Regarding Nondischargeability of Debt Owed to the Federal Trade Commission and Stipulated Order Regarding Nondischargeability of Debt Owed to the Federal Trade Commission, both of which are attached hereto as Appendix B, providing for the nondischargeability of the \$59,682,958 judgment entered in the Order for Monetary Relief. The FTC shall countersign and file the Stipulation Regarding Nondischargeability and the Stipulated Order Regarding Nondischargeability before the United States Bankruptcy Court for the District of Nevada.
- (C) Within ten (10) days of the date of entry of this Order, Fleisher shall sign and submit for filing to the FTC the Proposed Stipulated Order, attached hereto as Appendix C, providing for the unfreezing of certain assets frozen in the Contempt Action, subject to the resolution of related issues in the Fleisher Bankruptcy Action. The FTC shall countersign and file the Proposed Stipulated Order in the Contempt Action in this Court.

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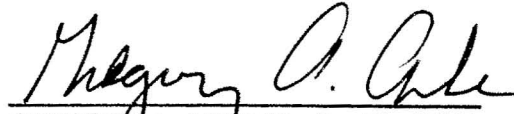
IX. RETENTION OF JURISDICTION

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

STIPULATED AND AGREED TO BY:

FOR THE PLAINTIFF:

10/16/08  
DATED



GREGORY A. ASHE, Va. Bar No. 39131  
ELIZABETH TUCCI (*pro hac vice*)  
MATTHEW J. WILSHIRE (*pro hac vice*)  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W., Room NJ-3158  
Washington, D.C. 20580  
202-326-3719 (voice)  
202-326-3768 (fax)  
[gashe@ftc.gov](mailto:gashe@ftc.gov); [etucci@ftc.gov](mailto:etucci@ftc.gov); [mwilshire@ftc.gov](mailto:mwilshire@ftc.gov)

FOR THE DEFENDANT:

09-16-08  
DATED

  
MICHAEL S. FLEISHER, Defendant

IT IS SO ORDERED:

\_\_\_\_\_  
DATED

\_\_\_\_\_  
T.S. ELLIS III  
UNITED STATES DISTRICT JUDGE

## **APPENDIX A**

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

FEDERAL TRADE COMMISSION,	)	
	)	
Appellee	)	
	)	No. 07-1980
v.	)	
	)	
MICHAEL FLEISHER,	)	
	)	
Appellant.	)	

**STIPULATION OF DISMISSAL**

On September 18, 2007, Appellant Michael Fleisher ("Fleisher") filed a Notice of Appeal as to the Final Judgment entered in *FTC v. International Product Design, et al.*, Case No. 1:97cv01114 (E.D. Va.). Pursuant to Fed. R. App. P. 42(b), Fleisher and Appellee the Federal Trade Commission now agree and stipulate as follows:

1. Fleisher's appeal is hereby dismissed; and

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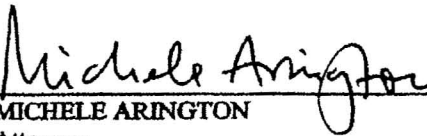
2. Each party shall bear its own costs and attorneys' fees.

**STIPULATED AND AGREED TO BY:**

**FOR APPELLEE:**

10-14-08

DATED



MICHELE ARINGTON

Attorney

Federal Trade Commission

600 Pennsylvania Avenue, N.W.

Washington, D.C. 20580

202-326-3157

202-326-2477 (fax)

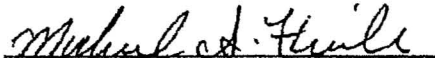
[marington@ftc.gov](mailto:marington@ftc.gov)

*Counsel for Appellee*

**FOR APPELLANT:**

090908

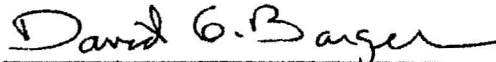
DATED



MICHAEL S. FLEISHER

9/18/08

DATED



KATHLEEN J. L. HOLMES

DAVID G. BARGER

Williams Mullen, PC

8270 Greensboro Drive, Suite 700

McLean, VA 22102

703-760-5200

703-748-0244 (fax)

[kholmes@williamsmullen.com](mailto:kholmes@williamsmullen.com)

*Counsel for Appellant*

## **APPENDIX B**



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WILLIAM BLUMENTHAL  
General Counsel

MICHAEL P. MORA (Ill. Bar No. 6199875)  
JULIE A. MACK (D.C. Bar No. 417741)  
Federal Trade Commission  
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Facsimile: (202) 326-2558  
Email: [mmora@ftc.gov](mailto:mmora@ftc.gov)  
[jmack@ftc.gov](mailto:jmack@ftc.gov)

Attorneys for the FEDERAL TRADE COMMISSION

**IN THE UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

IN RE:

MICHAEL STEVEN FLEISHER,

Debtor.

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

MICHAEL STEVEN FLEISHER,

Defendant.

Case No. 07-16003-mkn  
Chapter 7

Adv. No. 07-01236-mkn

**STIPULATION REGARDING  
NONDISCHARGEABILITY OF DEBT  
OWED TO THE FEDERAL TRADE  
COMMISSION**

**(NO HEARING REQUIRED)**

1 Plaintiff Federal Trade Commission ("Commission") and Defendant Michael Steven  
2 Fleisher ("Fleisher") (collectively, the "Parties") hereby stipulate to resolve Count I  
3 (Nondischargeability) of the Complaint in this Adversary Proceeding action as follows:

4 1. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §§ 157  
5 and 1334, and 11 U.S.C. § 523.

6 2. Venue in the District of Nevada is proper under 28 U.S.C. § 1409(a).

7 3. This Adversary Proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(I).

8 4. This Adversary Proceeding relates to *In re Michael Steven Fleisher*, Case No. 07-16003-  
9 mkn (D. Nev.) (Chapter 7), now pending in this Court. The FTC is an unsecured creditor  
10 with a claim against the Debtor pursuant to an Order for Monetary Relief entered by the  
11 United States District Court for the Eastern District of Virginia on August 24, 2007 in  
12 *FTC v. International Product Design*, Case No. 1:97-cv-01114-GBL-TCB (E.D. Va.)  
13 (the "Enforcement Action").

14 5. The Order for Monetary Relief includes a judgment in favor of the FTC against the  
15 Debtor in the amount of \$59,682,958, plus applicable interest in accordance with 28  
16 U.S.C. § 1961.

17 6. Fleisher agrees that the facts alleged in the Complaint as to Count I are true.

18 7. The FTC and the Debtor agree to resolve Count I (Nondischargeability) of the Complaint  
19 this Adversary Proceeding without any further litigation by stipulating that the  
20 \$59,682,958 judgment owing to the FTC by the Debtor is a debt for money obtained by  
21 fraud, nondischargeable in the Debtor's bankruptcy case pursuant to 11 U.S.C.  
22 § 523(a)(2)(A). The parties previously stipulated to the dismissal of Count II of the  
23 Complaint. (Doc. 12, 28).

24 8. The persons executing this Stipulation have authority to bind the parties to this  
25 Adversary Proceeding.

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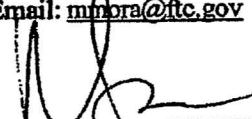
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1 9. Each party shall bear its own costs in this action, including attorney fees and expenses,  
2 with respect to Count I of the Complaint.  
3

4 **SO STIPULATED:**  
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6

7  
8 MICHAEL P. MORA (Ill. Bar No. 6199875)  
9 JULIE A. MACK (DC Bar No. 417741)  
10 Counsel for the Federal Trade Commission  
11 600 Pennsylvania Avenue, N.W.  
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17  
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19 \_\_\_\_\_  
20 Marjorie A. Guymon, Esq.  
21 Nevada Bar No. 4983  
22 **GOLDSMITH & GUYMON**  
23 Counsel for the Defendant  
24 Nevada Bar No. 4983  
25 2055 Village Center Circle  
26 Las Vegas, NV 89134  
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Counsel for Defendant

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[jmack@ftc.gov](mailto:jmack@ftc.gov)

Attorneys for the FEDERAL TRADE COMMISSION

**IN THE UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA**

IN RE:  
MICHAEL STEVEN FLEISHER,  
Debtor.  
FEDERAL TRADE COMMISSION,  
Plaintiff,  
v.  
MICHAEL STEVEN FLEISHER,  
Defendant.

Case No. 07-16003-mkn  
Chapter 7

Adv. No. 07-01236-mkn

STIPULATED ORDER REGARDING  
NONDISCHARGEABILITY OF DEBT OWED  
TO THE FEDERAL TRADE COMMISSION

Pursuant to the Stipulation Regarding Nondischargeability of Debt Owed to the Federal  
Trade Commission dated \_\_\_\_\_, 2008 between Plaintiff Federal Trade Commission

1 (“Commission”) and Defendant Michael Steven Fleisher (“Debtor”) (collectively, the “Parties”)  
2 resolving Count I (Nondischargeability) of the Complaint in this Adversary Proceeding, and  
3 good cause showing, **IT IS HEREBY ORDERED** that:

- 4 1. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §§ 157  
5 and 1334, and 11 U.S.C. § 523.
- 6 2. Venue in the District of Nevada is proper under 28 U.S.C. § 1409(a).
- 7 3. This Adversary Proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(I).
- 8 4. This Adversary Proceeding relates to *In re Michael Steven Fleisher*, Case No. 07-16003-  
9 mkn (D. Nev.) (Chapter 7), now pending in this Court. The FTC is an unsecured creditor  
10 with a claim against the Debtor pursuant to an Order for Monetary Relief entered by the  
11 United States District Court for the Eastern District of Virginia on August 24, 2007 in  
12 *FTC v. Int’l Product Design*, Case No. 1:97-cv-01114-GBL-TCB (E.D. Va.) (the  
13 “Enforcement Action”).
- 14 5. The Order for Monetary Relief includes a judgment for equitable monetary relief in favor  
15 of the FTC against the Debtor in the amount of \$59,682,958 (“Judgment”).
- 16 6. The Judgment in the Enforcement Action is a debt for money obtained by fraud excepted  
17 from discharge in the Debtor’s bankruptcy case pursuant to 11 U.S.C. § 523(a)(2)(A), in  
18 the amount of \$59,682,958, plus applicable interest in accordance with 28 U.S.C. § 1961.
- 19 7. The parties previously stipulated to the dismissal of Count II of the Complaint. (Doc. 12,  
20 28). Accordingly, this Order resolving Count I of the FTC’s Complaint concludes this  
21 Adversary Proceeding.
- 22 8. Each party shall bear its own costs in this action, including attorney fees and expenses,  
23 with respect to Count I of the Complaint.
- 24 //
- 25 //
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- 28

1 9. This Court shall retain jurisdiction of this matter for purposes of enforcing this Stipulated  
2 Order.

3  
4 Submitted by:

5 WILLIAM BLUMENTHAL  
6 General Counsel

7 MICHAEL P. MORA (Ill. Bar No. 6199875)  
8 JULIE A. MACK (DC Bar No. 417741)  
9 Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
10 Mail Drop - NJ-2122  
Washington, D.C. 20580  
11 Tel.: (202) 326-3373  
Fax: (202) 326-2558  
Email: [mmora@ftc.gov](mailto:mmora@ftc.gov)

12 APPROVED/DISAPPROVED:

13  
14 GOLDSMITH & GUYMON

15  
16 Marjorie A. Guymon, Esq.  
Nevada Bar No. 4983  
2055 Village Center Circle  
17 Las Vegas, NV 89134  
Attorneys for Defendant

18 **CERTIFICATION**

19  
20 In accordance with LR 9021, counsel submitting this document certifies as follows: I  
have delivered a copy of this proposed order to all counsel who have appeared in this Adversary  
21 Proceeding, as indicated below, and each has approved the order:

22 Marjorie A. Guymon, Esq. for Defendant Michael Fleisher

23  
24 Michael P. Mora  
25 Counsel for Plaintiff FTC

26 **IT IS SO ORDERED.**

27 ###

## **APPENDIX C**

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

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

INTERNATIONAL PRODUCT DESIGN, INC.; THE  
INNOVATION CENTER, INC.; NATIONAL IDEA  
CENTER; AMERICAN INVENTION ASSOCIATES,  
INC.; INVENTION CONSULTANTS, USA, 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-GBL-TCB

(Proposed)  
**STIPULATED ORDER MODIFYING AUGUST 24, 2007, PRELIMINARY  
INJUNCTION AS TO ASSET FREEZE OF  
CONTEMPT DEFENDANT MICHAEL FLEISHER**

On August 24, 2007, this Court held contempt defendant Michael Fleisher ("Fleisher") and other defendants jointly and severally liable for \$59,682,958 in consumer losses caused by their violations of a 1998 stipulated permanent injunction. The Court directed the funds to be paid to the Federal Trade Commission. To preserve a meaningful remedy, the Court on the same date entered a preliminary injunction ("Preliminary Injunction") freezing certain assets of Fleisher and other defendants.

Fleisher subsequently filed for bankruptcy in the United States District Court of Nevada



("Fleisher Bankruptcy Action")<sup>1</sup> and sought exemption of certain of his assets from the bankruptcy estate. (See Attachment A, Fleisher's "Schedule C-Property Claimed as Exempt.") The court-appointed Chapter 7 Trustee then filed objections to certain of Fleisher's claimed exemptions while posing no objections to others. (See Attachment B, Trustee's Objections to Claimed Exemptions.)

Plaintiff Federal Trade Commission ("FTC" or "Commission") and Fleisher have agreed to seek modification of the freeze of certain assets of Fleisher affected by the Preliminary Injunction, subject to the outcome of the Fleisher Bankruptcy Action. Accordingly, the Commission has moved for entry of a Stipulated Order that: 1) immediately lifts this court's freeze, imposed through the Preliminary Injunction, as to certain assets to which the trustee in the Fleisher Bankruptcy Action has not objected to Fleisher's claimed exemptions; and 2) provides for the lifting of this court's freeze as to other assets, the proposed exemption of which the bankruptcy trustee has objected, at such time as the bankruptcy court enters a final order resolving such objections. To the extent that the bankruptcy court by final order denies any of Fleisher's claimed exemptions, such assets will revert to the bankruptcy estate and be subject to disposition by the bankruptcy court.

After considering the motion for entry of this Stipulated Order, any hearing on the motion, and the record of these proceedings, the Court hereby GRANTS the motion.

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<sup>1</sup>The Federal Trade Commission is the primary creditor in *In re Michael Steven Fleisher*, BK-S-07-16003-MKN (D. Nev.). As part of a separate settlement, Fleisher has stipulated that his \$59,682,958 liability arising from this action is not dischargeable in his bankruptcy case.

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** as follows:

The Preliminary Injunction entered by this Court on or about August 24, 2007, is hereby modified, as to Fleisher, as follows:

- 1) The asset freeze imposed by Preliminary Injunction of this Court on August 24, 2007, is lifted as of the entry of this Order as to the following assets held by or for the benefit of Fleisher, and further identified in Attachment B:
  - a. Real Property at Garden Mist Drive in Las Vegas, Nevada;
  - b. Household Goods and Furnishings (two televisions and their respective stands; a large chair; three tables; linens, dishes, and other kitchen items; lamp, patio set with two chairs; bed);
  - c. A glass piece of art by Chihuly entitled Sapphire Baskets, Olympic Series;
  - d. Men's apparel;
  - e. Yurman watch;
  - f. Digital camera;
  - g. Life Insurance Policy issued by Protective Life valued at \$14,200; and
  - h. 2002 Acura-TLS.
  
- 2) The asset freeze imposed by Preliminary Injunction of this Court on August 24, 2007, is lifted as to the following assets held by or for the benefit of Fleisher, and further identified in Attachments A and B:
  - a. Cash on hand of \$1,800;
  - b. Washington Mutual checking account valued at \$1,800;
  - c. DWS Scudder-Money Market checking account valued at \$1,800;
  - d. E-Trade checking account valued at \$11,000;

- e. Mutuals.com stock fund valued at \$20,000;
- f. Washington Mutual savings account valued at \$24,800;
- g. Oil painting entitled "Cypress in Carmel," valued at \$2,000;
- h. Glass piece of art entitled "Fire," valued at \$1,500;
- i. Vanguard IRA valued at \$12,000;
- j. T. Rowe Price-SEP valued at \$112,000;
- k. E-Trade IRA valued at \$3,000; and
- l. DWS Scudder Roth IRA valued at \$17,500.

***Provided that, the freeze on any asset listed above (items (a) through (l)) is not lifted until such time as an order by the bankruptcy court in the Fleisher Bankruptcy Action resolving the Chapter 7 trustee's exemptions to such asset becomes final and unappealable as to that asset; and further***

*Provided that*, to the extent that the bankruptcy court by final order denies any of  
Fleisher's claimed exemptions, such assets will revert to the bankruptcy estate  
and be subject to disposition by the bankruptcy court.

**STIPULATED AND AGREED TO BY:**

**FOR THE PLAINTIFF:**

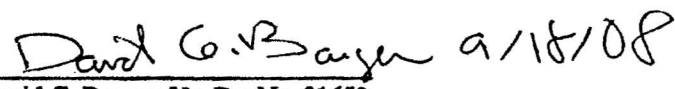
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DATED

\_\_\_\_\_  
Gregory A. Ashe, Va. Bar No. 39131  
Elizabeth Tucci (*pro hac vice*)  
Matthew J. Wilshire (*pro hac vice*)  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W., Room NJ-3158  
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Counsel for Plaintiff

**FOR THE DEFENDANT:**

09-09-08  
DATED

  
\_\_\_\_\_  
Michael S. Fleisher, Defendant

  
\_\_\_\_\_  
David G. Barger, Va. Bar No. 21652  
Kathleen Joanna Lynch Holmes, Va. Bar No. 35219  
Williams Mullen  
8270 Greensboro Dr., Suite 700  
McLean, VA 22102  
703-760-5200 (voice)  
703-748-0244 (fax)  
Counsel for Defendant

**IT IS SO ORDERED.**

\_\_\_\_\_  
DATED

\_\_\_\_\_  
The Hon. Gerald Bruce Lee  
United States District Judge