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

	)	<b>CIVIL ACTION NO.</b>
<b>Federal Trade Commission,</b>	)	
	)	<b>CV-12-914-PHX-DGC</b>
Plaintiff,	)	
	)	
v.	)	
	)	
<b>North America Marketing and Associates,</b>	)	
<b>LLC, a Nevada limited liability</b>	)	
<b>company, <i>et al.</i>;</b>	)	
	)	
Defendants and Relief Defendant.	)	
	)	

**Motion to Issue Stipulated Final Order for Permanent Injunction and Other Equitable Relief Entered Into by Plaintiff and Defendant Kimberly Joy Birdsong**

Plaintiff Federal Trade Commission and Defendant Kimberly Joy Birdsong have entered into a Stipulated Final Order for Permanent Injunction and Other Equitable Relief (“Stipulated Final Order”).

The parties request that the Court issue the attached Stipulated Final Order.

Dated: June 20, 2013

Respectfully submitted,

DAVID C. SHONKA  
Acting General Counsel

DEANYA T. Cocanougher  
Regional Director

/s/ Gary D. Kennedy

GARY D. KENNEDY, Okla. Bar No. 4961  
ANNE D. LEJEUNE, Tex. Bar No. 24054286  
JAMES E. ELLIOTT, Tex. Bar No. 06557100  
LUIS H. GALLEGOS, Okla. Bar No. 19098  
Federal Trade Commission  
1999 Bryan Street, Suite 2150  
Dallas, Texas 75201  
(214) 979-9379; gkennedy@ftc.gov (Kennedy)  
(214) 979-9371; alejeune@ftc.gov (LeJeune)  
(214) 979-9373; jelliott@ftc.gov (Elliott)  
(214) 979-9383; lgallegos@ftc.gov (Gallegos)  
(214) 953-3079 (Fax)  
Attorneys for Plaintiff  
FEDERAL TRADE COMMISSION

**CERTIFICATE OF SERVICE**

1 I certify that on June 20, 2013, Plaintiff, Federal Trade Commission, electronically  
2 transmitted the attached **Motion to Issue Stipulated Final Order for Permanent**  
3 **Injunction and Other Equitable Relief Entered Into by Plaintiff and Defendant**  
4 **Kimberly Joy Birdsong**, with proposed **Stipulated Final Order**, by ECF or email to the  
5 following:

6 **BY ECF:**

7 Claude C. Wild, III  
8 Greenberg Traurig, LLP  
9 1200 17<sup>th</sup> Street, Suite 2400  
10 Denver, CO 80202  
11 Stacey F. Gottlieb  
12 Greenberg Traurig  
13 2375 East Camelback Road Suite 700  
14 Phoenix, AZ 85016

15 *Counsel for:*

16 Joseph Wayne Lowry  
17 Sheila Ann Lowry  
18 North America Marketing and Associates, LLC  
19 NAMAA, LLC  
20 TM Multimedia Marketing, LLC (Nevada)  
21 National Opportunities, LLC (Nevada)  
22 World Wide Marketing and Associates, LLC  
23 Wide World of Marketing, LLC  
24 Precious Metals Resource, LLC  
25 Guaranteed Communications, LLC  
26 Superior Multimedia Group, LLC

27 John A. Shannon, Jr.  
28 40 North Central Avenue, Suite 1400  
Phoenix, AZ 85047

*Counsel for:*

Kimberly Joy Birdsong

1 William D. Black  
2 Attorney at Law  
3 One East Camelback Rd., Suite 550  
4 Phoenix, AZ 85012

*Counsel for:*

5 Daniel Vigil  
6 National Opportunities, LLC (Arizona)

7 Ashley D. Adams, PLC  
8 8245 North 85<sup>th</sup> Way  
9 Scottsdale, AZ 85258

*Counsel for:*

10 Carl Edward Morris, Jr.  
11 Marketing Strategies, LLC

12 Stephen C. Kunkle, PLLC  
13 5150 North 16<sup>th</sup> Street, Suite A-222  
14 Phoenix, AZ 85016

*Counsel for:*

15 Tracy Jerome Morris  
16 TM Multimedia Marketing, LLC (Arizona)

17 Kevin M. Judiscak  
18 Scott W. Hulbert  
19 Engleman Berger, PLC  
20 3636 North Central Avenue, Suite 700  
21 Phoenix, AZ 85012

*Counsel for:*

22 Robb Evans & Associates, LLC  
23 Receiver

**BY EMAIL:**

24 Sarah Lynne Stapel  
25 4474 Eagle Street  
26 Denver, CO 80239

27 Alyisse Maloi Tramel  
28 2606 North 71<sup>st</sup> Drive  
Phoenix, AZ 85035

Dated: June 20, 2013

/s/ Gary D. Kennedy  
Gary D. Kennedy

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

	)	<b>CIVIL ACTION NO.</b>
<b>Federal Trade Commission,</b>	)	
	)	<b>CV-12-914-PHX-DGC</b>
Plaintiff,	)	
	)	
v.	)	
	)	
<b>North America Marketing and Associates, LLC,</b>	)	
a Nevada limited liability company, <i>et al.</i> ;	)	
	)	
Defendants and Relief Defendants.	)	
	)	

**STIPULATED FINAL ORDER FOR PERMANENT INJUNCTION  
AND OTHER EQUITABLE RELIEF AS TO  
DEFENDANT KIMBERLY JOY BIRDSONG**

Plaintiff Federal Trade Commission (“Commission”) filed a Complaint for Permanent Injunction and Other Equitable Relief against Defendants North America Marketing and Associates, LLC; NAMAA, LLC; TM Multimedia Marketing, LLC, a Nevada limited liability company; TM Multimedia Marketing, LLC, an Arizona limited liability company; National Opportunities, LLC, a Nevada limited liability company; National Opportunities, LLC, an Arizona limited liability company; World Wide Marketing and Associates, LLC; Wide World of Marketing, LLC; Precious Metals Resource, LLC; Guaranteed Communications, LLC; Superior Multimedia Group, LLC;

1 Kimberly Joy Birdsong; Joseph Wayne Lowry; Tracy Jerome Morris; Sarah Lynne  
2 Stapel; Alyisse Maloi Tramel; Daniel Vigil; and Relief Defendants Sheila Ann Lowry;  
3 Carl Edward Morris, Jr.; and Marketing Strategies, LLC. The Complaint alleges that  
4 Defendants engaged in unfair or deceptive acts or practices in violation of Sections 13(b)  
5 and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b,  
6 and Section 6(b) of the Telemarketing and Consumer Fraud and Abuse Prevention Act  
7 ("Telemarketing Act"), 15 U.S.C. § 6105(b).  
8

9  
10 Plaintiff Federal Trade Commission and Defendant Kimberly Joy Birdsong,  
11 through her attorney, have agreed to entry of this Stipulated Permanent Injunction and  
12 Final Order ("Order") as to Defendant by this Court to resolve all matters of dispute  
13 between them in this action.  
14

15 **NOW THEREFORE**, Plaintiff Federal Trade Commission and Defendant having  
16 requested the Court to enter this Order,  
17

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

19 **FINDINGS**

20 1. This Court has jurisdiction of the subject matter of this case and Plaintiff  
21 and Defendant.  
22

23 2. Venue in this district is proper under 28 U.S.C. § 1391(b) and (c), and 15  
24 U.S.C. § 53(b).  
25

26 3. The activities of Defendant are in or affecting commerce, as defined in  
27 Section 4 of the FTC Act, 15 U.S.C. § 44.  
28



1           4.     The allegations of the Complaint state a claim upon which relief may be  
2 granted against Defendant under Sections 13(b) and 19 of the FTC Act, 15 U.S.C.  
3 §§ 53(b) and 57b, and Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b).

4           5.     Plaintiff has authority under Sections 13(b) and 19 of the FTC Act, 15  
5 U.S.C. §§ 53(b) and 57b, and Section 6(b) of the Telemarketing Act, 15 U.S.C.  
6 § 6105(b), to seek the relief it has requested.  
7

8           6.     Defendant has entered into this Order freely and without coercion.  
9 Defendant further acknowledges that she has read the provisions of this Order and is  
10 prepared to abide by them.  
11

12           7.     Defendant waives all rights to seek appellate review or otherwise challenge  
13 or contest the validity of this Order.  
14

15           8.     Defendant waives all claims that may arise under the Equal Access to  
16 Justice Act, 20 U.S.C. § 2412, concerning the prosecution of this action to date.  
17 Defendant also waives any claim against Plaintiff and its employees, representatives, or  
18 agents.  
19

20           9.     Entry of this Order is in the public interest.

21           10.    Each party shall bear its own costs and attorneys' fees incurred in this  
22 action.  
23

24           11.    Defendant neither admits nor denies any of the allegations in the Complaint,  
25 except as specifically stated in this Order. Only for purposes of this action, Defendant  
26 admits the facts necessary to establish jurisdiction.  
27  
28

**DEFINITIONS**

1  
2 For purposes of this Stipulated Final Order (“Order”), the following definitions  
3 shall apply:  
4

5 A. “Asset” means any legal or equitable interest in, right to, or claim to, any  
6 real or personal property, including, but not limited to, “goods,” “instruments,”  
7 “equipment,” “fixtures,” “general intangibles,” “inventory,” “checks,” or “notes” (as  
8 these terms are defined in the Uniform Commercial Code), lines of credit, chattels,  
9 leaseholds, contracts, mail or other deliveries, shares of stock, lists of consumer names,  
10 accounts, credits, premises, receivables, funds, and cash, wherever located.  
11

12 B. “Assisting others” includes, but is not limited to: (1) performing customer  
13 service functions, including, but not limited to, receiving or responding to consumer  
14 complaints; (2) formulating or providing, or arranging for the formulation or provision of,  
15 any sales script or other marketing material; (3) providing names of, or assisting in the  
16 generation of, potential customers; (4) performing marketing or billing services of any  
17 kind; (5) acting as an officer or director of a business entity; or (6) providing  
18 telemarketing services.  
19  
20

21 C. “Defendant” means Kimberly Joy Birdsong.

22 D. “Document” or “Electronically Stored Information” is synonymous in  
23 meaning and equal in scope to the usage of the terms in Rule 34(a) of the Federal Rules of  
24 Civil Procedure and includes:  
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1. The original or a true copy of any written, typed, printed, electronically stored, transcribed, taped, recorded, filmed, punched, or graphic matter or other data compilations of any kind, including, but not limited to, letters, email or other correspondence, messages, memoranda, interoffice communications, notes, reports, summaries, manuals, magnetic tapes or discs, tabulations, books, records, checks, invoices, work papers, journals, ledgers, statements, returns, reports, schedules, or files; and
2. Any electronically stored information stored on any Smartphones, flash drives, telephones, personal digital assistants (“PDAs”), desktop personal computers and workstations, laptops, notebooks, and other portable computers, or other electronic storage media, whether assigned to individuals or in pools of computers available for shared use; and home computers used for work-related purposes; backup disks and tapes, archive disks and tapes, and other forms of offline storage, whether stored onsite with the computer used to generate them, stored offsite in another company facility, or stored, hosted, or otherwise maintained offsite by a third-party; and computers and related offline storage used by Defendant or Defendant’s participating associates, which may include persons who are not employees of the company or who do not work on company premises.

1 E. "Mail" includes, but is not limited to, all envelopes, papers, or other items  
2 delivered, whether by United States Mail, United Parcel Service, FedEx, electronic mail,  
3 or similar delivery service.  
4

5 F. "Material fact" means any fact that is likely to affect a person's choice of,  
6 or conduct regarding, goods or services.  
7

8 G. "Person" means a natural person, organization, or other legal entity,  
9 including a corporation, partnership, sole proprietorship, limited liability company,  
10 association, cooperative, or any other group or combination acting as an entity.  
11

12 H. "Work-at-home opportunity" means any good, service, plan, or program  
13 that is represented, expressly or by implication, to assist an individual in any manner to  
14 earn money while working from home or from locations other than the business premises  
15 of Defendant.  
16

17 **ORDER**

18 **I.**

19 **BAN ON WORK-AT-HOME OPPORTUNITIES**

20 **IT IS ORDERED** that Defendant, whether acting directly or through any other  
21 person, corporation, partnership, subsidiary, division, agent, or other device, is  
22 permanently restrained and enjoined from:  
23

24 A. Advertising, marketing, promoting, offering for sale, or selling any work-at-  
25 home opportunity;

26 B. Assisting others engaged in advertising, marketing, promoting, offering for  
27 sale, or selling any work-at-home opportunity, including, but not limited to, web  
28

1 development, advertising, marketing, lead generation, or customer maximization services  
2 to assist the start-up or operation of a work-at-home opportunity; and

3 C. Holding any ownership interest, share, or stock in any business that engages  
4 in or assists in advertising, marketing, promoting, offering for sale, or selling any work-  
5 at-home opportunity, including, but not limited to, web development, advertising,  
6 marketing, lead generation, or customer maximization services to assist the start-up or  
7 operation of a work-at-home opportunity.

8 II.

9 **PROHIBITED REPRESENTATIONS RELATING**  
10 **TO ANY GOODS OR SERVICES**

11 **IT IS FURTHER ORDERED** that Defendant, and her agents, servants,  
12 employees, and all persons in active concert or participation with them who receive actual  
13 notice of this Order by personal service or otherwise, whether acting directly or through  
14 any corporation, partnership, subsidiary, division, agent, or other device, in connection  
15 with the advertising, marketing, promotion, offering for sale or sale of any good, service,  
16 plan, or program, are permanently restrained and enjoined from misrepresenting, or  
17 assisting others in misrepresenting, expressly or by implication, any material fact,  
18 including, but not limited to, that:

19 A. Purchasers are likely to earn substantial income;  
20 B. Purchasers will receive substantial assistance from marketing coaches;  
21 C. Any material aspect of the nature or terms of any refund, cancellation,  
22 exchange, or repurchase policy, including, but not limited to, the likelihood of a consumer  
23 obtaining a full or partial refund, or the circumstances in which a full or partial refund  
24 will be granted to the consumer; and

25 D. Any material aspect of the performance, efficacy, nature or other  
26 characteristic of the good, service, plan, or program.



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**III.**

**PROHIBITION AGAINST VIOLATING THE  
TELEMARKETING SALES RULE**

**IT IS FURTHER ORDERED** that, in connection with telemarketing, Defendant, and her agents, servants, employees, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any corporation, partnership, subsidiary, division, agent, or other device, are permanently restrained and enjoined from violating, or assisting others in violating, any provision of the Telemarketing Sales Rule, 16 C.F.R. Part 310, as currently promulgated or as it may be amended, including, but not limited to, by:

A. Representing, directly or indirectly, expressly or by implication that consumers who purchase and use any website sold by Defendant is likely to earn substantial income, in violation of Section 310.3(a)(2)(vi) of the TSR, 16 C.F.R. Part 310.3(a)(2)(vi);

B. Representing, directly or indirectly, expressly or by implication that consumers who purchase and use any advertising package sold by Defendant is likely to quickly earn back the cost, or substantially more than the cost of the advertising package, in violation of Section 310.3(a)(2)(vi) of the TSR, 16 C.F.R. Part 310.3(a)(2)(vi); and

C. Representing, directly or indirectly, expressly or by implication that business experts, business professionals, and marketing coaches will provide substantial assistance to consumers in operating any work-at-home opportunity they purchased from Defendant, in violation of Section 310.3(a)(2)(iii) of the TSR, 16 C.F.R. Part 310(a)(2)(iii).

**IV.**

**DUTY TO PROTECT CUSTOMER INFORMATION**

**IT IS FURTHER ORDERED** that Defendant and her agents, servants, and employees, and all persons in active concert or participation with any of them who

1 receive actual notice of this Order by personal service or otherwise, whether acting  
2 directly or through any corporation, partnership, subsidiary, division, agent, or other  
3 device, are permanently restrained and enjoined from:  
4

5       A.     Disclosing, using, or receiving any benefit from customer information,  
6 including the name, address, telephone number, email address, social security number,  
7 other identifying information, or any data that enables access to a customer's account  
8 (including a credit card, bank account, or other financial account), of any person which  
9 was obtained by Defendant prior to entry of this Order in connection with Defendant's  
10 offering for sale or sale of work-at-home opportunities; and  
11

12       B.     Failing to dispose of customer information in all forms in their possession,  
13 custody, or control within thirty (30) days after entry of this Order. Disposal shall be by  
14 means that protect against unauthorized access to the customer information, such as by  
15 burning, pulverizing, or shredding any papers, and by erasing or destroying any electronic  
16 media, to ensure that the customer information cannot practicably be read or  
17 reconstructed.  
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20       **Provided, however,** that customer information need not be disposed of, and may  
21 be disclosed, to the extent requested by a government agency or required by a law,  
22 regulation, or court order.  
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V.

**COOPERATION WITH COMMISSION COUNSEL**

**IT IS FURTHER ORDERED** that Defendant shall, in connection with this action or any subsequent investigations related to or associated with the transactions or the occurrences that are the subject of the Commission's Complaint, cooperate in good faith with the Commission and appear, or cause her employees, representatives, or agents to appear, at such places and times as the Commission shall reasonably request, after written notice, for interviews, conferences, pretrial discovery, review of documents, and for such other matters as may be reasonably requested by the Commission. If requested in writing by the Commission, Defendant shall appear, or cause her employees, representatives, or agents to appear, and provide truthful testimony in any trial, deposition, or other proceeding related to or associated with the transactions or the occurrences that are the subject of the Complaint, without the service of a subpoena.

VI.

**MONETARY JUDGMENT**

**IT IS FURTHER ORDERED** that:

A. Judgment in the amount of **SEVENTEEN MILLION, NINE HUNDRED AND FIFTY-SEVEN THOUSAND, FIVE HUNDRED AND EIGHTY-NINE DOLLARS** (\$17,957,589), an estimate of the total amount of consumer injury caused by the activities alleged in the Commission's Complaint, is entered in favor of the Commission and jointly and severally against Defendant, as equitable monetary relief,

1 including, but not limited to, restitution or disgorgement, and for paying any attendant  
2 expenses for the administration of any restitution fund; *provided, however*, that this  
3  
4 Judgment for equitable monetary relief shall be suspended upon the satisfaction of the  
5 obligations applicable to Defendant as imposed by Subsection B of this Section and  
6 subject to the provisions of Paragraph VII, titled "Right to Reopen."

7  
8 B. Within ten (10) days of the date of entry of this Order, Defendant shall pay  
9 **ONE THOUSAND EIGHT HUNDRED NINETY SIX DOLLARS (\$1,896)** in  
10 equitable monetary relief, including, but not limited to, restitution or disgorgement, and  
11 for paying any attendant expenses for the administration of any restitution fund, to the  
12 Commission in the form of a wire transfer or certified or cashier's check made payable to  
13 the Commission, or such agent as the Commission may direct.

15 C. Time is of the essence for the payments specified above. In the event of  
16 default on any obligation to make payment under Section B of this Paragraph, interest,  
17 computed according to 28 U.S.C. § 1961(a), shall accrue from the date of default to the  
18 date of payment. Defendant shall be jointly and severally liable for all payments required  
19 by this Order and for interest on such payments.

20  
21 D. All funds paid under this Order shall be deposited into a fund administered  
22 by the Commission or its agent to be used for equitable relief, including, but not limited  
23 to, restitution and any attendant expenses for the administration of any restitution fund.  
24 Defendant shall cooperate fully to assist the Commission in identifying consumers who  
25 may be entitled to restitution under this Order. In the event that direct restitution to  
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1 consumers is wholly or partially impracticable or funds remain after restitution is  
2 completed, the Commission may apply any remaining funds for the other equitable relief  
3 (including consumer information remedies) as it determines to be reasonably related to  
4 Defendant's practices alleged in the Complaint. Any funds not used for the equitable  
5 relief shall be deposited to the United States Treasury as disgorgement. Defendant shall  
6 have no right to challenge the Commission's choice of remedies under this Section and  
7 shall have no right to contest the manner of distribution chosen by the Commission.  
8  
9

10 E. Defendant relinquish all dominion, control, and title to the funds paid to the  
11 fullest extent permitted by law. Defendant shall make no claim to or demand for return of  
12 the funds, directly or indirectly, through counsel or otherwise.  
13

14 F. Defendant shall take no deduction, capital loss, write-off, or any other tax  
15 benefit on any federal or state tax return, amended tax return, IRS Form 1045, or any  
16 other tax filing, for all or any part of any payment toward satisfaction of this judgment.  
17

18 G. Defendant agrees that the facts as alleged in the Complaint filed in this  
19 action shall be taken as true without further proof in any bankruptcy case or subsequent  
20 civil litigation pursued by the Commission to enforce its rights to any payment or money  
21 judgment pursuant to this Order, including, but not limited to, a nondischargeability  
22 complaint in any bankruptcy case. Defendant further stipulates and agrees that the facts  
23 alleged in the Complaint establish all elements necessary to sustain an action by the  
24 Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C.  
25 § 523(a)(2)(A), and that this Order shall have collateral estoppel effect for such purposes.  
26  
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28

1 H. In accordance with 31 U.S.C. § 7701, Defendant is required, within ten (10)  
2 days after entry of this Order, unless she already has done so, to furnish the Commission  
3 with taxpayer identifying numbers (Social Security numbers or employer identification  
4 numbers), which shall be used for purposes of collecting and reporting on any delinquent  
5 amount arising out of their relationship with the government. Defendant is further  
6 required, within ten (10) days after entry of this Order, unless she already has done so, to  
7 provide the Commission with clear, legible, and full-size photocopies of all valid driver's  
8 licenses that he possesses, which will be used for reporting and compliance purposes.  
9  
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11 I. Proceedings instituted under this Section are in addition to, and not in lieu  
12 of, any other civil or criminal remedies that may be provided by law, including any other  
13 proceedings the Commission may initiate to enforce this Order.  
14

15 **VII.**

16 **RIGHT TO REOPEN**

17 **IT IS FURTHER ORDERED** that:

18  
19 A. The Commission's agreement to this Order and the Court's approval are  
20 expressly premised upon the truthfulness, accuracy, and completeness of the Defendant's  
21 representations regarding their respective financial condition, as set forth in Defendant's  
22 May 31, 2012 sworn financial statement supporting documents submitted to the  
23 Commission. Defendant stipulates that the financial statement and information submitted  
24 by her are truthful, accurate, and complete. The documents submitted contain material  
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1 information upon which the Commission relied in negotiating and agreeing to the terms  
2 of this Order.

3  
4 B. If, upon motion by the Commission, the Court determines that Defendant  
5 failed to disclose any material asset, materially misrepresented the value of any asset, or  
6 made any other material misrepresentation in or omission from Defendant's financial  
7 disclosure, the value of which exceeds \$1,000, then the suspension of the judgment,  
8 ordered in Subsection A of the Section titled "Monetary Judgment," shall be terminated  
9 and the entire judgment amount shall be entered against Defendant. *Provided, however,*  
10 that Defendant shall be entitled to offset these judgment amounts by any sums already  
11 paid under this Order.  
12

13  
14 C. The reinstated judgment shall become immediately due and payable by  
15 Defendant, and interest computed at the rate prescribed under 28 U.S.C. § 1961, as  
16 amended, shall immediately begin to accrue on any unpaid balance. *Provided, however,*  
17 that in all other respects this Order shall remain in full force and effect unless otherwise  
18 ordered by the Court; and  
19

20 D. Any proceedings instituted under this Section would be in addition to, and  
21 not in lieu of, any other civil or criminal remedies as may be provided by law, including,  
22 but not limited to, contempt proceedings, or any other proceedings that the Commission  
23 or the United States might initiate to enforce this Order. For purposes of this Section,  
24 Defendant waives any right to contest any of the allegations in the Commission's  
25 Complaint.  
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VIII.

LIFTING OF ASSET FREEZE

IT IS FURTHER ORDERED that the freeze of Defendant's assets set forth in the Preliminary Injunction, entered by this Court on May 23, 2012, shall be lifted permanently.

IX.

PROHIBITION ON COLLECTING ON ACCOUNTS

IT IS FURTHER ORDERED that Defendant and her officers, agents, servants, employees, and all persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any corporation, partnership, subsidiary, division, agent, or other device, or any of them, in connection with the advertising, marketing, promotion, offering for sale or sale of any good, service, plan, program, or business opportunity are permanently restrained and enjoined from attempting to collect, collecting, selling, assigning, or otherwise transferring any right to collect payment from any consumer who purchased or agreed to purchase any work-at-home opportunity from Defendant.

X.

ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendant obtain acknowledgments of receipt of this Order:

1           A.     Within seven (7) days of entry of this Order, Defendant must submit to the  
2 Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

3           B.     For five (5) years after entry of this Order, Defendant for any business that  
4 she is the majority owner or directly or indirectly controls, must deliver a copy of this  
5 Order to: (1) all principals, officers, directors, and managers; (2) agents, employees, and  
6 representatives who participate in conduct related to the subject matter of the Order; and  
7 (3) any business entity resulting from any change in structure as set forth in the Section  
8 titled Compliance Reporting. Delivery must occur within seven (7) days of entry of this  
9 Order for current personnel. To all others, delivery must occur before they assume their  
10 responsibilities.

11           C.     From each individual or entity to which Defendant delivered a copy of this  
12 Order, she must obtain, within thirty (30) days, a signed and dated acknowledgment of  
13 receipt of this Order.

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18                            **XI.**

19                                       **COMPLIANCE REPORTING**

20           **IT IS FURTHER ORDERED** that Defendant make timely submissions to the  
21 Commission:

22           A.     One year after entry of this Order, Defendant must submit a compliance  
23 report, sworn under penalty of perjury.

24           1.     Defendant must: (a) designate at least one telephone number and an email,  
25 physical, and postal address as points of contact, which representatives of the  
26  
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1 Commission may use to communicate with Defendant; (b) identify all of  
2 Defendant's businesses by all of their names, telephone numbers, and physical,  
3 postal, email, and Internet addresses; © describe the activities of each business,  
4 including the products and services offered, the means of advertising, marketing,  
5 and sales, and the involvement of any other Defendant; (d) describe in detail  
6 whether and how that Defendant is in compliance with each Section of this Order;  
7 and (e) provide a copy of each Order Acknowledgment obtained pursuant to this  
8 Order, unless previously submitted to the Commission; and  
9

10  
11 2. Additionally, Defendant must: (a) identify all telephone numbers and all  
12 email, Internet, physical, and postal addresses, including all residences; (b) identify  
13 all titles and roles in all business activities, including any business for which  
14 Defendant performs services whether as an employee or otherwise and any entity  
15 in which Defendant has any ownership interest; and (c) describe in detail  
16 Defendant's involvement in each such business, including title, role,  
17 responsibilities, participation, authority, control, and any ownership.  
18

19  
20 **B.** For ten (10) years following entry of this Order, Defendant must submit a  
21 compliance notice, sworn under penalty of perjury, within fourteen (14) days of any  
22 change in the following:  
23

24 1. Defendant must report any change in: (a) any designated point of contact;  
25 or (b) the structure of any entity that Defendant has any ownership interest in or  
26 directly or indirectly controls that may affect compliance obligations arising under  
27  
28



1 this Order, including: creation, merger, sale, or dissolution of the entity or any  
2 subsidiary, parent, or affiliate that engages in any acts or practices subject to this  
3 Order; and  
4

5 2. Additionally, Defendant must report any change in: (a) name, including  
6 aliases or fictitious name, or residence address; or (b) title or role in any business  
7 activity, including any business for which Defendant performs services whether as  
8 an employee or otherwise and any entity in which Defendant has any ownership  
9 interest, and identify its name, physical address, and Internet address, if any.  
10

11 C. Defendant must submit to the Commission notice of the filing of any  
12 bankruptcy petition, insolvency proceeding, or any similar proceeding by or against  
13 Defendant within fourteen (14) days of its filing.  
14

15 D. Any submission to the Commission required by this Order to be sworn  
16 under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746,  
17 such as by concluding: "I declare under penalty of perjury under the laws of the United  
18 States of America that the foregoing is true and correct. Executed on: \_\_\_\_\_" and  
19 supplying the date, signatory's full name, title (if applicable), and signature.  
20

21 E. Unless otherwise directed by a Commission representative in writing, all  
22 submissions to the Commission under this Order must be emailed to DEbrief@ftc.gov or  
23 sent by overnight courier (not the U.S. Postal Service) to: Associate Director for  
24 Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600  
25 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: *FTC*  
26  
27  
28

1 v. *North America Marketing and Associates, LLC, et al.*, Civil Action No. 2:12-cv-914-  
2 DGC (D. Ariz.) (X120024), Defendant \_\_\_\_\_.”

3  
4 **XII.**

5 **RECORDKEEPING**

6 **IT IS FURTHER ORDERED** that Defendant must create certain records for ten  
7 (10) years after entry of the Order, and retain each such record for five (5) years.

8 Specifically, Defendant, for any business in which any Defendant, individually or  
9 collectively with any other Defendant, is a majority owner or directly or indirectly  
10 controls, must maintain the following records:

11  
12 **A.** Accounting records showing the revenues from all goods or services sold,  
13 all costs incurred in generating those revenues, and the resulting net profit or loss;

14  
15 **B.** Personnel records showing, for each person providing services, whether as  
16 an employee or otherwise, that person's: name, addresses, and telephone numbers; job  
17 title or position; dates of service; and, if applicable, the reason for termination;

18  
19 **C.** Complaints and refund requests, whether received directly or indirectly,  
20 such as through a third party, and any response;

21  
22 **D.** All records necessary to demonstrate full compliance with each provision of  
23 this Order, including all submissions to the Commission; and

24 **E.** A copy of each advertisement or other marketing material.  
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**XIII.**

**COMPLIANCE MONITORING**

**IT IS FURTHER ORDERED** that, for the purpose of monitoring Defendant's compliance with this Order:

A. Within fourteen (14) days of receipt of a written request from a representative of the Commission, Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents, for inspection and copying. The Commission is also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, the Commission is authorized to communicate directly with Defendant. Defendant must permit representatives of the Commission to interview any employee or other person affiliated with Defendant who has agreed to such an interview. The person interviewed may have counsel present.

C. The Commission may use all other lawful means, including posing, through its representatives, as consumers, suppliers, or other individuals or entities, to Defendant or any individual or entity affiliated with Defendant, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, under Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

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**XIV.**

**RETENTION OF JURISDICTION**

**IT IS FURTHER ORDERED** that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

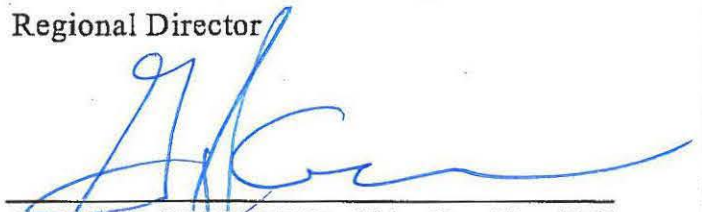
1 **SO STIPULATED:**

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4 DATED: \_\_\_\_\_

06/20/13

DAVID C. SHONKA  
Acting General Counsel

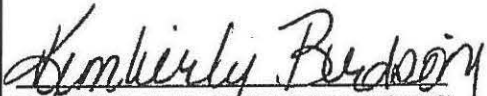
5  
6 DEANYA T. KUECKELHAN  
Regional Director

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9 


10 GARY D. KENNEDY, Okla. Bar No. 4961  
11 ANNE D. LEJEUNE, Tex. Bar No. 24054286  
12 LUIS H. GALLEGOS, Okla. Bar No. 19098  
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17 (214) 979-9379; gkennedy@ftc.gov (Kennedy)  
18 (214) 979-9371; alejeune@ftc.gov (LeJeune)  
19 (214) 979-9383; lgallegos@ftc.gov (Gallegos)  
20 (214) 979-9373; jelliott@ftc.gov (Elliott)  
21 (214) 953-3079 (Fax)

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28 Attorneys for Plaintiff  
FEDERAL TRADE COMMISSION

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KIMBERLY JOY BIRDSONG

DATED: 1/26/13

  
JOHN A. SHANNON, JR.  
40 North Central Ave., Suite 1400  
Phoenix, Arizona 85047

DATED: 1/26/13

Counsel for:  
Kimberly Joy Birdsong