

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

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

**Motion to Issue Stipulated Final Order for Permanent Injunction and Other
Equitable Relief Entered Into by Plaintiff and Defendants
Tracy Jerome Morris and TM Multimedia Marketing, LLC (AZ)**

Plaintiff Federal Trade Commission and Defendants Tracy Jerome Morris and TM
Multimedia Marketing, LLC (AZ) 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; gkenedy@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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 Defendants**
4 **Tracy Jerome Morris and TM Multimedia Marketing, LLC (AZ)**, with proposed
5 **Stipulated Final Order**, by ECF or email to the following:

6 **BY ECF:**

7 Claude C. Wild, III
8 Greenberg Traurig, LLP
9 1200 17th 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 85th Way
9 Scottsdale, AZ 85258

Counsel for:

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

12 Stephen C. Kunkle, PLLC
13 5150 North 16th 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 71st Drive
Phoenix, AZ 85035

Dated: June 20, 2013

/s/ Gary D. Kennedy
Gary D. Kennedy

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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

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

**STIPULATED FINAL ORDER FOR PERMANENT INJUNCTION AND
OTHER EQUITABLE RELIEF AS TO DEFENDANTS TRACY JEROME
MORRIS AND TM MULTIMEDIA MARKETING, LLC (ARIZONA)**

1 Plaintiff Federal Trade Commission (“Commission”) filed a Complaint for
2 Permanent Injunction and Other Equitable Relief against Defendants North America
3 Marketing and Associates, LLC; NAMAA, LLC; TM Multimedia Marketing, LLC, a
4 Nevada limited liability company; TM Multimedia Marketing, LLC, an Arizona limited
5 liability company; National Opportunities, LLC, a Nevada limited liability company;
6 National Opportunities, LLC, an Arizona limited liability company; World Wide
7 Marketing and Associates, LLC; Wide World of Marketing, LLC; Precious Metals
8 Resource, LLC; Guaranteed Communications, LLC; Superior Multimedia Group, LLC;
9 Kimberly Joy Birdsong; Joseph Wayne Lowry; Tracy Jerome Morris; Sarah Lynne
10 Stapel; Alyisse Maloi Tramel; Daniel Vigil; and Relief Defendants Sheila Ann Lowry;
11 Carl Edward Morris, Jr.; and Marketing Strategies, LLC. The Complaint alleges that
12 Defendants engaged in unfair or deceptive acts or practices in violation of Sections 13(b)
13 and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b,
14 and Section 6(b) of the Telemarketing and Consumer Fraud and Abuse Prevention Act
15 (“Telemarketing Act”), 15 U.S.C. § 6105(b).

16 Plaintiff Federal Trade Commission and Defendants Tracy Jerome Morris and TM
17 Multimedia Marketing, LLC (Arizona) (“Defendants”), through their attorney, have
18 agreed to entry of this Stipulated Permanent Injunction and Final Order (“Order”) as to
19 Defendants by this Court to resolve all matters of dispute between them in this action.

20 **NOW THEREFORE**, Plaintiff Federal Trade Commission and Defendants
21 having requested the Court to enter this Order,
22

23 **IT IS ORDERED, ADJUDGED, AND DECREED** as follows:
24

FINDINGS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1. This Court has jurisdiction of the subject matter of this case and Plaintiff and Defendants.

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

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

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

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

6. Defendants have entered into this Order freely and without coercion. Defendants further acknowledge that they have read the provisions of this Order and are prepared to abide by them.

7. Defendants waive all rights to seek appellate review or otherwise challenge or contest the validity of this Order.

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

1 **C.** “**Defendants**” means Tracy Jerome Morris and TM Multimedia Marketing,
2 LLC (Arizona).

3
4 **D.** “**Individual Defendant**” means Tracy Jerome Morris.

5 **E.** “**Corporate Defendant**” means TM Multimedia Marketing, LLC
6 (Arizona).

7 **F.** “**Document**” or “**Electronically Stored Information**” is synonymous in
8 meaning and equal in scope to the usage of the terms in Rule 34(a) of the Federal Rules of
9 Civil Procedure and includes:

10
11 1. The original or a true copy of any written, typed, printed,
12 electronically stored, transcribed, taped, recorded, filmed, punched, or
13 graphic matter or other data compilations of any kind, including, but not
14 limited to, letters, email or other correspondence, messages, memoranda,
15 interoffice communications, notes, reports, summaries, manuals, magnetic
16 tapes or discs, tabulations, books, records, checks, invoices, work papers,
17 journals, ledgers, statements, returns, reports, schedules, or files; and

18
19 2. Any electronically stored information stored on any Smartphones,
20 flash drives, telephones, personal digital assistants (“PDAs”), desktop
21 personal computers and workstations, laptops, notebooks, and other
22 portable computers, or other electronic storage media, whether assigned to
23 individuals or in pools of computers available for shared use; and home
24 computers used for work-related purposes; backup disks and tapes, archive
25 disks and tapes, and other forms of offline storage, whether stored onsite
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 Defendants or Defendants' participating associates, which may include persons who are not employees of the company or who do not work on company premises.

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

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

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

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

I.

BAN ON WORK-AT-HOME OPPORTUNITIES

IT IS ORDERED that Defendants, whether acting directly or through any other person, corporation, partnership, subsidiary, division, agent, or other device, are permanently restrained and enjoined from:

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

B. Assisting others engaged in advertising, marketing, promoting, offering for sale, or selling any work-at-home opportunity, including, but not limited to, web development, advertising, marketing, lead generation, or customer maximization services to assist the start-up or operation of a work-at-home opportunity; and

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

II.

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

IT IS FURTHER ORDERED that Defendants, and their 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, in connection with the advertising, marketing, promotion, offering for sale or sale of any good, service,

1 consumers who purchase and use any advertising package sold by Defendants are likely
2 to quickly earn back the cost, or substantially more than the cost of the advertising
3 package, in violation of Section 310.3(a)(2)(vi) of the TSR, 16 C.F.R. Part
4 310.3(a)(2)(vi); and

5 C. Representing, directly or indirectly, expressly or by implication that
6 business experts, business professionals, and marketing coaches will provide substantial
7 assistance to consumers in operating any work-at-home opportunity they purchased from
8 Defendants, in violation of Section 310.3(a)(2)(iii) of the TSR, 16 C.F.R. Part
9 310(a)(2)(iii).

10 IV.
11 **DUTY TO PROTECT CUSTOMER INFORMATION**

12 **IT IS FURTHER ORDERED** that Defendants and their agents, servants, and
13 employees, and all persons in active concert or participation with any of them who
14 receive actual notice of this Order by personal service or otherwise, whether acting
15 directly or through any corporation, partnership, subsidiary, division, agent, or other
16 device, are permanently restrained and enjoined from:
17

18 A. Disclosing, using, or receiving any benefit from customer information,
19 including the name, address, telephone number, email address, social security number,
20 other identifying information, or any data that enables access to a customer's account
21 (including a credit card, bank account, or other financial account), of any person which
22 was obtained by Defendants prior to entry of this Order in connection with Defendants'
23 offering for sale or sale of work-at-home opportunities; and
24

25 B. Failing to dispose of customer information in all forms in their possession,
26 custody, or control within thirty (30) days after entry of this Order. Disposal shall be by
27
28

1 means that protect against unauthorized access to the customer information, such as by
2 burning, pulverizing, or shredding any papers, and by erasing or destroying any electronic
3 media, to ensure that the customer information cannot practicably be read or
4 reconstructed.
5

6 **Provided, however,** that customer information need not be disposed of, and may
7 be disclosed, to the extent requested by a government agency or required by a law,
8 regulation, or court order.
9

10 V.

11 **COOPERATION WITH COMMISSION COUNSEL**

12 **IT IS FURTHER ORDERED** that Defendants shall, in connection with this
13 action or any subsequent investigations related to or associated with the transactions or
14 the occurrences that are the subject of the Commission's Complaint, cooperate in good
15 faith with the Commission and appear, or cause their employees, representatives, or
16 agents to appear, at such places and times as the Commission shall reasonably request,
17 after written notice, for interviews, conferences, pretrial discovery, review of documents,
18 and for such other matters as may be reasonably requested by the Commission. If
19 requested in writing by the Commission, Defendants shall appear, or cause their
20 employees, representatives, or agents to appear, and provide truthful testimony in any
21 trial, deposition, or other proceeding related to or associated with the transactions or the
22 occurrences that are the subject of the Complaint, without the service of a subpoena.
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

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 Defendants, as equitable monetary relief, including, but not limited to, restitution or disgorgement, and for paying any attendant expenses for the administration of any restitution fund; *provided, however*, that this Judgment for equitable monetary relief shall be suspended subject to the provisions of Section VII, titled "Right to Reopen."

B. In the event of default on any obligation to make payment under this Order, interest, computed according to 28 U.S.C. § 1961(a), shall accrue from the date of default to the date of payment. Defendants shall be liable for all payments required by this Order and for interest on such payments.

C. All funds paid under this Order shall be deposited into a fund administered by the Commission or its agent to be used for equitable relief, including, but not limited to, restitution and any attendant expenses for the administration of any restitution fund. Defendants shall cooperate fully to assist the Commission in identifying consumers who may be entitled to restitution under this Order. In the event that direct restitution to consumers is wholly or partially impracticable or funds remain after restitution is

1 completed, the Commission may apply any remaining funds for the other equitable relief
2 (including consumer information remedies) as it determines to be reasonably related to
3
4 Defendants' practices alleged in the Complaint. Any funds not used for the equitable
5 relief shall be deposited to the United States Treasury as disgorgement. Defendants 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 D. Defendants relinquish all dominion, control, and title to the funds paid to
10 the fullest extent permitted by law. Defendants shall make no claim to or demand for
11 return of the funds, directly or indirectly, through counsel or otherwise.
12

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

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

27 G. In accordance with 31 U.S.C. § 7701, Defendants are required, within ten
28 (10) days after entry of this Order, unless they already have done so, to furnish the

1 Commission with taxpayer identifying numbers (Social Security numbers or employer
2 identification numbers), which shall be used for purposes of collecting and reporting on
3 any delinquent amount arising out of their relationship with the government. Defendants
4 are further required, within ten (10) days after entry of this Order, unless they already
5 have done so, to provide the Commission with clear, legible, and full-size photocopies of
6 all valid driver's licenses that Defendants possess, which will be used for reporting and
7 compliance purposes.
8

9
10 H. Proceedings instituted under this Section are in addition to, and not in lieu
11 of, any other civil or criminal remedies that may be provided by law, including any other
12 proceedings the Commission may initiate to enforce this Order.
13

14 **VII.**

15 **RIGHT TO REOPEN**

16 **IT IS FURTHER ORDERED** that:

17
18 A. The Commission's agreement to this Order and the Court's approval are
19 expressly premised upon the truthfulness, accuracy, and completeness of the Defendants'
20 representations regarding their respective financial condition, as set forth in Defendants'
21 sworn financial statements and supporting documents submitted to the Commission as
22 follows:
23
24
25
26
27
28

Defendant	Dated
Tracy Jerome Morris	Sworn Financial Statement dated 10/16/12
TM Multimedia Marketing, LLC (Arizona)	Sworn Financial Statement dated 10/16/12

Defendants stipulate that all financial statements and information submitted by them are truthful, accurate, and complete. The documents submitted contain material information upon which the Commission relied in negotiating and agreeing to the terms of this Order.

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

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

1 D. Any proceedings instituted under this Section would be in addition to, and
2 not in lieu of, any other civil or criminal remedies as may be provided by law, including,
3 but not limited to, contempt proceedings, or any other proceedings that the Commission
4 or the United States might initiate to enforce this Order. For purposes of this Section,
5 Defendants waive any right to contest any of the allegations in the Commission's
6 Complaint.
7
8

9 **VIII.**

10 **PROHIBITION ON COLLECTING ON ACCOUNTS**

11 **IT IS FURTHER ORDERED** that Defendants and their officers, agents,
12 servants, employees, and all persons in active concert or participation with them who
13 receive actual notice of this Order by personal service or otherwise, whether acting
14 directly or through any corporation, partnership, subsidiary, division, agent, or other
15 device, or any of them, in connection with the advertising, marketing, promotion, offering
16 for sale or sale of any good, service, plan, program, or business opportunity are
17 permanently restrained and enjoined from attempting to collect, collecting, selling,
18 assigning, or otherwise transferring any right to collect payment from any consumer who
19 purchased or agreed to purchase any work-at-home opportunity from Defendants.
20
21
22

23 **IX.**

24 **ORDER ACKNOWLEDGMENTS**

25 **IT IS FURTHER ORDERED** that Defendants obtain acknowledgments of
26 receipt of this Order:
27
28

1 businesses by all of their names, telephone numbers, and physical, postal, email, and
2 Internet addresses; (c) describe the activities of each business, including the products and
3 services offered, the means of advertising, marketing, and sales, and the involvement of
4 any other Defendant; (d) describe in detail whether and how that Defendant is in
5 compliance with each Section of this Order; and (e) provide a copy of each Order
6 Acknowledgment obtained pursuant to this Order, unless previously submitted to the
7 Commission; and
8
9

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

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

23 1. Defendants must report any change in: (a) any designated point of contact;
24 or (b) the structure of any entity that Defendant has any ownership interest in or directly
25 or indirectly controls that may affect compliance obligations arising under this Order,
26 including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or
27 affiliate that engages in any acts or practices subject to this Order; and
28

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

7 C. Defendants must submit to the Commission notice of the filing of any
8 bankruptcy petition, insolvency proceeding, or any similar proceeding by or against a
9 Defendant within fourteen (14) days of its filing.
10

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

18 E. Unless otherwise directed by a Commission representative in writing, all
19 submissions to the Commission under this Order must be emailed to DEbrief@ftc.gov or
20 sent by overnight courier (not the U.S. Postal Service) to: Associate Director for
21 Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600
22 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: *FTC*
23 *v. North America Marketing and Associates, LLC, et al.*, Civil Action No. 2:12-cv-914-
24 DGC (D. Ariz.) (X120024), Defendant _____.”
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

XI.

RECORDKEEPING

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

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

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

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

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

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

E. A copy of each advertisement or other marketing material.

XII.

COMPLIANCE MONITORING

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

1 **A.** Within fourteen (14) days of receipt of a written request from a
2 representative of the Commission, Defendants must: submit additional compliance
3 reports or other requested information, which must be sworn under penalty of perjury;
4 appear for depositions; and produce documents, for inspection and copying. The
5 Commission is also authorized to obtain discovery, without further leave of court, using
6 any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including
7 telephonic depositions), 31, 33, 34, 36, 45, and 69.
8

10 **B.** For matters concerning this Order, the Commission is authorized to
11 communicate directly with Defendants. Defendants must permit representatives of the
12 Commission to interview any employee or other person affiliated with any Defendant
13 who has agreed to such an interview. The person interviewed may have counsel present.
14

15 **C.** The Commission may use all other lawful means, including posing, through
16 its representatives, as consumers, suppliers, or other individuals or entities, to Defendants
17 or any individual or entity affiliated with Defendants, without the necessity of
18 identification or prior notice. Nothing in this Order limits the Commission's lawful use
19 of compulsory process, under Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

XIII.

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.

IT IS SO ORDERED.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

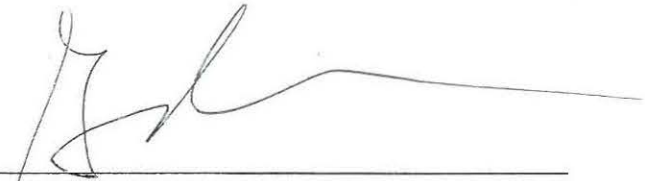
SO STIPULATED:

DATED:

06/20/13

DAVID C. SHONKA
Acting General Counsel

DEANYA T. KUECKELHAN
Regional Director



GARY D. KENNEDY, Okla. Bar No. 4961
ANNE D. LEJEUNE, Tex. Bar No. 24054286
LUIS H. GALLEGOS, Okla. Bar No. 19098
JAMES E. ELLIOTT, Tex. Bar No. 06557100
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) 979-9383; lgallegos@ftc.gov (Gallegos)
(214) 979-9373; jelliott@ftc.gov (Elliott)
(214) 953-3079 (Fax)

Attorneys for Plaintiff
FEDERAL TRADE COMMISSION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



TRACY JEROME MORRIS


DATED: 1-31-13



TM MULTIMEDIA MARKETING, LLC (AZ)

DATED: 1-31-13

Tracy Morris (OWNER)



STEPHEN C. KUNKLE, PLLC
5150 North 16th Street, Suite A-222
Phoenix, Arizona 85016
Counsel for Defendants Tracy Jerome Morris
and TM Multimedia Marketing, LLC (AZ)

DATED: ~~1/31~~ / 13