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9 Attorneys for Plaintiff

10 **UNITED STATES DISTRICT COURT**  
11 **DISTRICT OF ARIZONA**

12 **FEDERAL TRADE COMMISSION,**

13 Plaintiff,

14 v.

15 **CAPITOL NETWORK DISTANCE**  
16 **LEARNING PROGRAMS, LLC, et al.,**

17 Defendants.

Case No. CV-16-00350-PHX-DJH

**STIPULATION TO ENTER FINAL  
ORDER FOR PERMANENT  
INJUNCTION AND SETTLEMENT OF  
CLAIMS AS TO DEFENDANTS  
CAPITOL NETWORK DISTANCE  
LEARNING PROGRAMS, LLC,  
CAPITAL NETWORK DIGITAL  
LICENSING PROGRAMS, LLC, AND  
NICHOLAS POLLICINO**

21 Plaintiff, Federal Trade Commission (“FTC”), commenced this civil action on  
22 February 8, 2016, by filing its Complaint (Doc. 1) seeking a permanent injunction and  
23 other equitable relief pursuant to Section 13(b) of the Federal Trade Commission Act  
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1 (“FTC Act”), 15 U.S.C. § 53(b). On February 17, 2016, the Court entered a Stipulated  
2 Temporary Restraining Order against Defendants (Doc. 25). On March 11, 2016, the  
3 Court entered a Stipulated Preliminary Injunction against Defendants (Doc. 35). Pursuant  
4 to Federal Rule of Evidence 408 and the protections afforded therein, the FTC and  
5 Defendants Capitol Network Distance Learning Programs, LLC, Capital Network Digital  
6 Licensing Programs, LLC, and Nicholas Pollicino have stipulated and agreed to entry of  
7 this Final Order for Permanent Injunction and Settlement of Claims (“Order”) to resolve  
8 all matters in dispute in this action between them. A proposed order is attached hereto.  
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#### 10 **FINDINGS**

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

- 12 1. This Court has jurisdiction over this matter.
- 13 2. The Complaint charges that the Settling Defendants participated in deceptive acts  
14 or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, in connection  
15 with the marketing and sale of academic degree and certification programs.  
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- 17 3. The Settling Defendants neither admit nor deny any of the allegations in the  
18 Complaint, except as specifically stated in this Order. Only for purposes of this  
19 action, the Settling Defendants admit the facts necessary to establish jurisdiction.  
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- 21 4. The Settling Defendants waive any claim that they may have under the Equal  
22 Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action  
23 through the date of this Order, and agree to bear their own costs and attorney fees.  
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1 5. The Settling Defendants waive all rights to appeal or otherwise challenge or contest  
2 the validity of this Order.

3 6. Entry of this Order is in the public interest.

4 **DEFINITIONS**

5 For the purpose of this Order, the following definitions apply:

6 A. **“Academic Degree or Certification Program”** means any product, service, plan,  
7 or program that provides or purports to provide doctoral degrees, master’s degrees,  
8 bachelor’s degrees, associate’s degrees, high school diplomas or high school  
9 equivalency diplomas or certificates, certifications, certificates, or any other  
10 document that confers or purports to confer a qualification, records or purports to  
11 record success in examinations or successful completion of a course of study, or  
12 evidences or purports to evidence that a consumer has completed and shown  
13 proficiency in a curriculum recognized as necessary to earn the indicated degree,  
14 diploma, certification, certificate, or other document, whether denominated as a  
15 degree, diploma, certification, certificate, or other name, whether denoted as a real  
16 or novelty item.

17 B. **“Customer”** means any person who has paid, or may be required to pay, for  
18 products, services, plans, or programs offered for sale or sold by any other person.

19 C. **“Defendants”** means Capitol Network Distance Learning Programs, LLC, Capital  
20 Network Digital Licensing Programs, LLC, Veritas Sales, Inc., Nicholas Pollicino,  
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1 Anthony Clavien, and Adam Pollicino, individually, collectively, or in any  
2 combination.

3 D. **“Person”** means a natural person, organization, or other legal entity, including a  
4 corporation, partnership, proprietorship, association, cooperative, or any other  
5 group or combination acting as an entity.

6 E. **“Settling Defendants”** means the Individual Settling Defendant and the Corporate  
7 Settling Defendants, individually, collectively, or in any combination.

8 **“Corporate Settling Defendants”** means Capitol Network Distance Learning  
9 Programs, LLC, Capital Network Digital Licensing Programs, LLC, and their  
10 successors and assigns. **“Individual Settling Defendant”** means Nicholas A.  
11 Pollicino, and any other name by which he may be known.  
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#### 14 **ORDER**

#### 15 **BAN ON ACADEMIC DEGREE OR CERTIFICATION PROGRAMS**

16 I. **IT IS THEREFORE ORDERED** that the Settling Defendants, whether acting  
17 directly or through any other person, are permanently restrained and enjoined from:  
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- 19 A. Advertising, marketing, promoting, or offering for sale any academic degree or  
20 certification program; and  
21 B. Assisting others engaged in the advertising, marketing, promoting, or offering  
22 for sale of any academic degree or certification program.  
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**PROHIBITION AGAINST MISREPRESENTATIONS**

1 **II. IT IS FURTHER ORDERED** that the Settling Defendants, their officers, agents,  
2 and employees, and all other persons in active concert or participation with any of  
3 them, who receive actual notice of this Order, whether acting directly or indirectly,  
4 in connection with promoting or offering for sale any good or service are  
5 permanently restrained and enjoined from misrepresenting or assisting others in  
6 misrepresenting, expressly or by implication:  
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- 9 A. The total costs to purchase, receive, or use, and the quantity of, any good or  
10 service;
  - 11 B. Any material restriction, limitation, or condition to purchase, receive, or use  
12 any good or service;
  - 13 C. Any material aspect of the performance, efficacy, nature, or central  
14 characteristics of any good or service;
  - 15 D. The nature, expertise, position, or job title of any person who provides any  
16 good or service;
  - 17 E. The person who will provide any good or service;
  - 18 F. Any material aspect of the nature or terms of any refund, cancellation,  
19 exchange, or repurchase policy, including, but not limited to, the likelihood  
20 of a consumer obtaining a full or partial refund, or the circumstances in  
21 which the full or partial refund will be granted to the consumer;  
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- G. That any person providing a testimonial has purchased, received, or used the good or service;
  - H. That the experience represented in a testimonial of a good or service represents the person's actual experience resulting from the use of the good or service under the circumstances depicted in the advertisement;
  - I. That the experience represented in a testimonial of a good or service is representative of what consumers will generally achieve with the good or service;
  - J. That any person is affiliated with, endorsed or approved by, accredited by, or otherwise connected to any other person; government entity; public, non-profit, or other non-commercial program; or any other program; or
  - K. Any other fact material to a consumer's decision to purchase any good or service.

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**MONETARY JUDGMENT AND PARTIAL SUSPENSION**

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**III. IT IS FURTHER ORDERED** that:

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- A. Judgment in the amount of NINE MILLION, FIVE HUNDRED FIVE THOUSAND, ONE HUNDRED AND FIFTY FIVE DOLLARS (\$9,505,155) is entered in favor of the FTC against the Settling Defendants, jointly and severally, as equitable monetary relief.

B. In partial satisfaction of the judgment against the Settling Defendants:

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1. BMO Harris Bank shall, within ten (10) business days of receipt of a copy of this Order, transfer to the FTC or its designated agent all funds, if any, in: (a) account number xxxx9117 in the name of Capital Network Digital Licensing Programs, LLC; (b) and account number xxxx8721 in the name of Capital Network Digital Licensing Programs, LLC;
2. Bank of America shall, within ten (10) business days of receipt of a copy of this Order, transfer to the FTC or its designated agent all funds, if any, in account number xxxx5086 in the name of Capitol Network Distance Learning Programs, LLC;
3. Compass Bank shall, within ten (10) business days of receipt of a copy of this Order, transfer to the FTC or its designated agent all funds, if any, in account number xxxx2343 in the name of Nicholas Pollicino d/b/a CNDLP;
4. First Data Corporation shall, within ten (10) business days of receipt of a copy of this Order, transfer to the FTC or its designated agent all funds, if any, associated with (a) merchant account number xxxx7880 in the name of Capital Network Distance Learning Programs; (b) merchant account number xxxx1320 in the name of Capital Network Distance Learning

1 Programs; and (c) merchant account number xxxx1353 in the name of  
2 Capital Network Distance Learning Programs;

3 5. Authorize.net shall, within ten (10) business days of receipt of a copy of  
4 this Order, transfer to the FTC or its designated agent all funds, if any,  
5 associated with (a) merchant account number xxxx8022 in the name of  
6 Capital Network Distance Learning Programs; (b) merchant account  
7 number xxxx7484 in the name of Capital Network Distance Learning  
8 Programs; and (c) merchant account number xxxx4685 in the name of Get  
9 Web Design Fast;  
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12 6. American Express Company shall, within ten (10) business days of receipt  
13 of a copy of this Order, transfer to the FTC or its designated agent all  
14 funds, if any, associated with (a) merchant account number xxxx5669 in  
15 the name of Capital Network Distance Learning Programs and (b)  
16 merchant account number xxxx2263 in the name of Capital Network  
17 Distance Learning Programs;  
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20 7. PayPal shall, within ten (10) business days of receipt of a copy of this  
21 Order, transfer to the FTC or its designated agent all funds, if any, in  
22 account number xxxx6607 in the name of Capital Network Digital  
23 Licensing Programs;  
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8. Vantage West Credit Union shall, within ten (10) business days of receipt of a copy of this Order, transfer to the FTC or its designated agent all funds, if any, in account number xxxx8976 in the name of Nicholas Pollicino;

9. JP Morgan Chase Bank shall, within ten (10) business days of receipt of a copy of this Order, transfer to the FTC or its designated agent all funds, if any, in account number xxxx7356 in the name of Nicholas Pollicino;

10. Arizona Federal Credit Union shall, within ten (10) business days of receipt of a copy of this Order, transfer to the FTC or its designated agent all funds, if any, in account number xxxx8728 in the name of Nicholas Pollicino;

11. Betterment Holdings shall, within ten (10) business days of receipt of a copy of this Order, liquidate all holdings in account number xxxx9482 in the name of Nicholas Pollicino and transfer the proceeds of such liquidation to the FTC or its designated agent;

12. Robinhood Financial shall, within ten (10) business days of receipt of a copy of this Order, liquidate all holdings in account number xxxxDPA in the name of Nicholas Pollicino and transfer the proceeds of such liquidation to the FTC or its designated agent;

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13. Defendant Nicholas Pollicino shall, within 180 calendar days of receipt of a copy of this Order, transfer to the FTC or its designated agent either (a) cash in the amount of \$75,000 or (b) title to the real property located at 1640 South Pacific Street, Apartment 4, Oceanside, California. Defendant Pollicino shall cooperate fully with the FTC or its designated agent and shall execute any instrument or document presented by the FTC or its designated agent, and do whatever else the FTC or its designated agent deem necessary or desirable to effect such transfer;

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C. Upon completion of the asset transfers set forth in Section III.B of this Order, the remainder of the judgment as to the Settling Defendants is suspended, subject to the Subsections below.

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D. The asset freeze is modified to permit the transfers identified in this Section. Upon completion of those transfers, the asset freeze is dissolved.

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E. The FTC’s agreement to the suspension of part of the judgment is expressly premised upon the truthfulness, accuracy, and completeness of the Settling Defendants’ sworn financial statements and related documents (collectively, “financial representations”) submitted to the FTC, namely: (1) the Financial Statement of Corporate Defendants Capitol Network Distance Learning Programs, LLC and Capital Network Digital Licensing Programs, LLC signed on March 1, 2016 by Nicholas Pollicino, including the attachments; and (2) the Financial

Statement of Individual Defendant Nicholas Pollicino signed on March 1, 2016, including the attachments.

- F. The suspension of the judgment will be lifted as to a Settling Defendant if, upon motion by the FTC, the Court finds that the Settling Defendant failed to disclose any material asset, materially misstated the value of any asset, or made any other material misstatement or omission in the financial representations identified above.
- G. If the suspension of the judgment is lifted, the judgment becomes immediately due as to that Settling Defendant in the amount specified in Subsection A above (which the parties stipulate only for purposes of this Section represents the consumer injury alleged in the Complaint, less any payment previously made pursuant to this Section, plus interest computed from the date of entry of this Order).
- H. The Settling Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.
- I. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the FTC to enforce its rights to any payment or monetary judgment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.
- J. The facts alleged in the Complaint establish all elements necessary to sustain an action by the FTC pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11

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U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

K. The Settling Defendants acknowledge that their Taxpayer Identification Numbers (Social Security Numbers or Employer Identification Numbers), which the Settling Defendants previously submitted to the FTC, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. §7701.

L. All money paid to the FTC pursuant to this Order may be deposited into a fund administered by the FTC or its designee to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the FTC decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the FTC may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants’ practices alleged in the Complaint. Any money not used for such equitable relief is to be deposited to the U.S. Treasury as disgorgement.

Defendants have no right to challenge any actions the FTC or its representatives may take pursuant to this Subsection.

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**CUSTOMER INFORMATION**

1 **IV. IT IS FURTHER ORDERED** that the Settling Defendants, their officers, agents,  
2 and employees, and all other persons in active concert or participation with any of  
3 them, who receive actual notice of this Order, whether acting directly or indirectly,  
4 are permanently restrained and enjoined from directly or indirectly:  
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6 A. Disclosing, using, or benefitting from customer information, including the name,  
7 address, telephone number, email address, social security number, other identifying  
8 information, or any data that enables access to a customer’s account (including a  
9 credit card, bank account, or other financial account), that any Defendant obtained  
10 prior to entry of this Order in connection with the marketing and sale of any  
11 academic degree or certification program; and  
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13 B. Failing to destroy such customer information in all forms in their possession,  
14 custody, or control within 30 days after receipt of written direction to do so from a  
15 representative of the FTC.  
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17 Provided, however, that customer information need not be disposed of, and may be  
18 disclosed, to the extent requested by a government agency or required by law,  
19 regulation, or court order.  
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**ORDER ACKNOWLEDGMENTS**

21 **V. IT IS FURTHER ORDERED** that the Settling Defendants obtain  
22 acknowledgments of receipt of this Order:  
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- 1 A. Each Settling Defendant, within 7 days of entry of this Order, must submit
- 2 to the FTC an acknowledgment of receipt of this Order sworn under penalty
- 3 of perjury.
- 4 B. For 5 years after entry of this Order, the Individual Settling Defendant for
- 5 any business that the Individual Settling Defendant, individually or
- 6 collectively with any other Defendants, is the majority owner or controls
- 7 directly or indirectly, and each Corporate Settling Defendant, must deliver a
- 8 copy of this Order to: (1) all principals, officers, directors, and LLC
- 9 managers and members; (2) all employees, agents, and representatives who
- 10 participate in conduct related to the subject matter of the Order; and (3) any
- 11 business entity resulting from any change in structure as set forth in the
- 12 Section titled Compliance Reporting. Delivery must occur within 7 days of
- 13 entry of this Order for current personnel. For all others, delivery must
- 14 occur before they assume their responsibilities.
- 15 C. From each individual or entity to which a Settling Defendant delivered a
- 16 copy of this Order, that Settling Defendant must obtain, within 30 days, a
- 17 signed and dated acknowledgment of receipt of this Order.
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**COMPLIANCE REPORTING**

**VI. IT IS FURTHER ORDERED** that the Settling Defendants make timely submissions to the FTC:

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

1. Each Settling Defendant must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the FTC may use to communicate with that Settling Defendant; (b) identify all of that Settling Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant (which the Individual Settling Defendant must describe if he knows or should know due to his own involvement); (d) describe in detail whether and how that Settling Defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the FTC.

2. Additionally, the Individual Settling Defendant must: (a) identify all telephone numbers and all physical, postal, email and Internet addresses, including all residences; (b) identify all business activities, including any business for which the Individual Settling Defendant performs services

whether as an employee or otherwise and any entity in which the Individual Settling Defendant has any ownership interest; and (c) describe in detail the Individual Settling Defendant’s involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.

B. For 10 years after entry of this Order, each Settling Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. Each Settling Defendant must report any change in: (a) any designated point of contact; or (b) the structure of each Corporate Settling Defendant or any entity that such Settling Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.
2. Additionally, the Individual Settling Defendant must report any change in: (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for which the Individual Settling Defendant performs services whether as an employee or otherwise and any

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entity in which the Individual Settling Defendant has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity.

C. Each Settling Defendant must submit to the FTC notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Settling Defendant within 14 days of its filing.

D. Any submission to the FTC required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: \_\_\_\_\_” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by an FTC representative in writing, all submissions to the FTC pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: FTC v. Capitol Network Distance Learning Programs, X160026.

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**RECORDKEEPING**

**VII. IT IS FURTHER ORDERED** that the Settling Defendants must create certain records for 10 years after entry of the Order, and retain each such record for 5 years. Specifically, each Corporate Settling Defendant and the Individual Settling Defendant for any business that the Individual Settling Defendant, individually or collectively with any other Defendants, is a majority owner or controls directly or indirectly, must create and retain the following records:

- A. Accounting records showing the revenues from all goods or services sold;
- B. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;
- C. Records of all consumer 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 FTC; and
- E. A copy of each materially different advertisement or other marketing material.

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**COMPLIANCE MONITORING**

1 **VIII. IT IS FURTHER ORDERED** that, for the purpose of monitoring the Settling  
2 Defendants' compliance with this Order, including the financial representations  
3 upon which part of the judgment was suspended and any failure to transfer any  
4 assets as required by this Order:  
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6 A. Within 14 days of receipt of a written request from a representative of the  
7 FTC, each Settling Defendant must: submit additional compliance reports  
8 or other requested information, which must be sworn under penalty of  
9 perjury; appear for depositions; and produce documents for inspection and  
10 copying. The FTC is also authorized to obtain discovery, without further  
11 leave of court, using any of the procedures prescribed by Federal Rules of  
12 Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45,  
13 and 69; provided that a Settling Defendant, after attempting to resolve a  
14 dispute without court action and for good cause shown, may file a motion  
15 with this Court seeking an order for one or more of the protections set forth  
16 in Rule 26(c).  
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20 B. For matters concerning this Order, the FTC is authorized to communicate  
21 directly with each Settling Defendant. The Settling Defendants must permit  
22 representatives of the FTC to interview any employee or other person  
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affiliated with any Settling Defendant who has agreed to such an interview.

The person interviewed may have counsel present.

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

D. Upon written request from a representative of the FTC, any consumer reporting agency must furnish consumer reports concerning the Individual Settling Defendant, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. §1681b(a)(1).

**ENTRY OF JUDGMENT**

**IX. IT IS FURTHER ORDERED** that there is no just reason for delay of entry of this judgment, and that, pursuant to Federal Rule of Civil Procedure 54(b), the Clerk immediately shall enter this Order as a final judgment as to defendants Capitol Network Distance Learning Programs, LLC, Capital Network Digital Licensing Programs, LLC, and Nicholas Pollicino.

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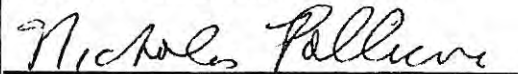
**RETENTION OF JURISDICTION**

**X. 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 STIPULATED.**

FOR SETTLING DEFENDANTS:

FOR PLAINTIFF:



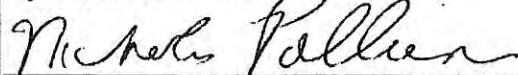


CAPITOL NETWORK DISTANCE  
LEARNING PROGRAMS, LLC,  
Defendant

GREGORY A. ASHE  
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KATHARINE ROLLER

By: Nicholas Pollicino

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CAPITOL NETWORK DIGITAL  
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**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on February 10, 2017, I electronically transmitted **STIPULATION TO ENTER FINAL ORDER FOR PERMANENT INJUNCTION AND MONETARY JUDGMENT AS TO DEFENDANTS CAPITOL NETWORK DISTANCE LEARNING PROGRAMS, LLC, CAPITAL NETWORK DIGITAL LICENSING PROGRAMS, LLC, AND NICHOLAS POLLICINO** and [proposed] **STIPULATED FINAL ORDER FOR PERMANENT INJUNCTION AND MONETARY JUDGMENT AS TO DEFENDANTS CAPITOL NETWORK DISTANCE LEARNING PROGRAMS, LLC, CAPITAL NETWORK DIGITAL LICENSING PROGRAMS, LLC, AND NICHOLAS POLLICINO** to the Clerk’s Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

- Andrew S. Gordon
- John Christian Kelly
- Scott Michael Bennett
- Mark Walter Horne
- Gregory A. Ashe
- Katharine Roller

/s/ Gregory A. Ashe  
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