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6 Washington, DC 20580
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7 UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF NEVADA

9 Case No. 2:10-cv-02203-MMD-GWF

10 FEDERAL TRADE COMMISSION,
11

12 Plaintiff,
13

14 v.
15

16 JEREMY JOHNSON, *et al.*,
17

18 Defendants.

18 **STIPULATED FINAL ORDER FOR PERMANENT INJUNCTION AND**
19 **MONETARY RELIEF AS TO DEFENDANT DUANE FIELDING, ANTHON**
20 **HOLDINGS, INC. AND NETWORK AGENDA, LLC.**

21 On December 21, 2010, Plaintiff, the Federal Trade Commission (“FTC” or
22 “Commission”) filed a redacted Complaint for permanent injunction and other relief pursuant to
23 Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), and Section
24 917(c) of the Electronic Fund Transfer Act (“EFTA”), 15 U.S.C. § 1693o(c), alleging that
25 defendants Duane Fielding , Anthon Holdings, Inc. and Network Agenda, LLC, and numerous
26 other individuals and corporate entities (collectively, “IWorks Defendants”) engaged in
27

1 violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), Section 917(c) of EFTA, and
2 Section 205.10(b) of Regulation E (“Reg E”), 12 C.F.R. § 205.10(b), in connection with the
3 marketing and sale of Internet-based products and services. On February 25, 2013, the
4 Commission filed its First Amended Complaint (“Amended Complaint”) [ECF No. 830], adding
5 eight relief defendants.
6

7 The Commission and Defendants Duane Fielding, Anthon Holdings, Inc. and Network
8 Agenda, LLC (“Fielding Defendants”) stipulate to the entry of this Stipulated Final Order for
9 Permanent Injunction and Monetary Judgment as to the Fielding Defendants (“Order”) to resolve
10 all matters in dispute in this action between them.

11 **THEREFORE, IT IS STIPULATED, AGREED, AND ORDERED** as follows:

12 **FINDINGS**

- 13
- 14 1. This Court has jurisdiction over this matter.
 - 15 2. The Amended Complaint charges that the Fielding Defendants participated in deceptive
16 and unfair acts or practices in violation of Sections 5(a) and 13(b) of the FTC Act, 15
17 U.S.C. §§ 45(a) and 53(b); under Section 917(c) of EFTA, 15 U.S.C. § 1693o(c); and
18 Reg E, 12 C.F.R. § 205.10(b).
 - 19 3. The Fielding Defendants neither admit nor deny any of the allegations in the Amended
20 Complaint, except as specifically stated in this Order. Only for purposes of this action,
21 the Fielding Defendants admit the facts necessary to establish jurisdiction.
 - 22 4. The Fielding Defendants waive any claim that they may have under the Equal Access to
23 Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date
24 of this Order, and agree to bear their own costs and attorney fees.
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1 5. The Fielding Defendants waive and release any claims that they may have against the
2 Commission, the Receiver and their agents that relate to this action.

3 6. The Fielding Defendants and the Commission waive all rights to appeal or otherwise
4 challenge or contest the validity of this Order.
5

6 **DEFINITIONS**

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

8 1. **“Affiliate Network”** means any Person who provides Duane Fielding with Marketing
9 Affiliates for an Affiliate Program or whom Duane Fielding contracts with as a Marketing
10 Affiliate to promote any Product.
11

12 2. **“Clear(ly) and Conspicuous(ly)”** or “Clear and Conspicuous” means that a required
13 disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary
14 consumers, including in all of the following ways:

15 a. In any communication that is solely visual or solely audible, the disclosure must
16 be made through the same means through which the communication is presented. In any
17 communication made through both visual and audible means, such as a television
18 advertisement, the disclosure must be presented simultaneously in both the visual and
19 audible portions of the communication even if the representation requiring the disclosure
20 is made in only one means.
21

22 b. A visual disclosure, by its size, contrast, location, the length of time it appears,
23 and other characteristics, must stand out from any accompanying text or other visual
24 elements so that it is easily noticed, read, and understood.
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1 c. An audible disclosure, including by telephone or streaming video, must be
2 delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily
3 hear and understand it.

4 d. In any communication using an interactive electronic medium, such as the
5 Internet or software, the disclosure must be unavoidable.

6 e. The disclosure must use diction and syntax understandable to ordinary consumers
7 and must appear in each language in which the representation that requires the disclosure
8 appears.

9 f. The disclosure must comply with these requirements in each medium through
10 which it is received, including all electronic devices and face-to-face communications.

11 g. The disclosure must not be contradicted or mitigated by, or inconsistent with,
12 anything else in the communication.

13 h. When the representation or sales practice targets a specific audience, such as
14 children, the elderly, or the terminally ill, “ordinary consumers” includes reasonable
15 members of that group.

16 3. **“Client”** means any third party to which Duane Fielding provides any of the services
17 listed in the definition of Assisting others.

18 4. **“Commission”** or **“FTC”** means the Federal Trade Commission.

19 5. **“Continuity Program”** means any plan, arrangement, or system under which a
20 consumer is periodically charged to maintain a service or periodically receive any Product,
21 including, but not limited to, access to a “member only” website.

22 6. **“Corporate Defendants”** means:

23 1) Anthon Holdings Corp.	24 32) Internet Economy, Inc.
25 2) Big Bucks Pro, Inc.	26 33) Internet Fitness, Inc.

27 Stipulated Final Order as to Duane Fielding,
28 Anthon Holdings, Inc. and Network Agenda, LLC

3) Blue Net Progress, Inc.	34) IWorks, Inc.
4) Blue Streak Processing, Inc.	35) Jet Processing, Inc.
5) Bolt Marketing, Inc.	36) JRB Media, Inc.
6) Bottom Dollar, Inc.	37) LifeStyles for Fitness, Inc.
7) Bumble Marketing, Inc.	38) Market Funding Solutions, Inc.
8) Business First Inc.	39) Mist Marketing, Inc.
9) Business Loan Success, Inc.	40) Money Harvest, Inc.
10) Cloud Nine Marketing, Inc.	41) Monroe Processing, Inc.
11) Cold Bay Media, Inc.	42) Net Business Success, Inc.
12) Costnet Discounts, Inc.	43) Net Commerce, Inc.
13) CPA Upsell, Inc.	44) Net Discounts, Inc.
14) CS Processing, Inc.	45) Net Fit Trends, Inc.
15) Cutting Edge Processing, Inc.	46) Network Agenda, LLC
16) Diamond J Media, Inc.	47) Optimum Assistance, Inc.
17) Ebusiness First, Inc.	48) Power Processing, Inc.
18) Ebusiness Success, Inc.	49) Premier Performance, Inc.
19) Ecom Success, Inc.	50) Pro Internet Services, Inc.
20) Elite Debit, Inc.	51) Razor Processing, Inc.
21) Employee Plus, Inc.	52) Rebate Deals, Inc.
22) Excess Net Success, Inc.	53) Revive Marketing, Inc.
23) Fiscal Fidelity, Inc.	54) Simcor Marketing, Inc.
24) Fitness Processing, Inc.	55) Success Marketing, Inc.
25) Funding Search Success, Inc.	56) Summit Processing, Inc.
26) Funding Success, Inc.	57) The Net Success, Inc.
27) GG Processing, Inc.	58) Tranfirst, Inc.
28) GGL Rewards, Inc.	59) Tran Voyage, Inc.
29) Highlight Marketing, Inc.	60) Unlimited Processing, Inc.
30) Hooper Processing, Inc.	61) xCel Processing, Inc.
31) Internet Business Source, Inc.	

7. **“Endorsement”** means any advertising message (including verbal statements, demonstrations, or depictions of the name, signature, likeness or other identifying personal characteristics of an individual or the name or seal of an organization), which message consumers are likely to believe reflects the opinions, beliefs, findings, or experience of a party other than the sponsoring advertiser.

8. **“Endorser”** means the party whose opinions, beliefs, findings, or experience the message appears to reflect, and may be an individual, group or institution.

9. **“Express Verifiable Authorization”** means:

Stipulated Final Order as to Duane Fielding,
Anthon Holdings, Inc. and Network Agenda, LLC

1 a. Express written authorization by the customer, which includes the customer's
2 signature, and shall include an electronic or digital form of signature, to the extent that
3 such form of signature is recognized as a valid signature under applicable federal law or
4 state contract law;

5 b. Express oral authorization which is audio-recorded and made available upon
6 request to the customer, and the customer's bank or other billing entity, and which
7 evidences clearly both the customer's authorization of payment for the goods or services
8 that are the subject of the transaction and the customer's receipt of all of the following
9 information:
10

11 (i) An accurate description, clearly and conspicuously stated, of the goods or services
12 for which payment authorization is sought;

13 (ii) The number of debits, charges, or payments (if more than one);

14 (iii) The date(s) the debit(s), charge(s), or payment(s) will be submitted for payment;

15 (iv) The amount(s) of the debit(s), charge(s), or payment(s);

16 (v) The customer's name;

17 (vi) The customer's billing information, identified with sufficient specificity such that
18 the customer understands what account will be used to collect payment for the
19 goods or services that are the subject of the transaction;

20 (vii) A telephone number for customer inquiry that is answered during normal
21 business hours; and

22 (viii) The date of the customer's oral authorization; or

23 c. Written confirmation of the transaction, identified in a Clear and Conspicuous
24 manner as such on the outside of the envelope, sent to the customer via first class mail
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1 prior to the submission for payment of the customer’s billing information, and that
2 includes all of the information contained in b(i)-(vii) above and a Clear and Conspicuous
3 statement of the procedures by which the customer can obtain a refund in the event the
4 confirmation is inaccurate; *provided, however*, that this means of authorization shall not
5 be deemed verifiable in instances in which goods or services are offered in a transaction
6 involving a free-to-pay conversion and preacquired account information.
7

8 10. **“Financial Institution”** means any institution the business of which is engaging in
9 financial activities as described in section 4(k) of the Bank Holding Company Act of 1956 (12
10 U.S.C. § 1843(k)). An institution that is significantly engaged in financial activities is a
11 Financial Institution.

12 11. **“Forced Upsell”** means the automatic bundling of any additional Product with the
13 purchase of a Primary Product. For purposes of this Order, a Forced Upsell shall include, but not
14 be limited to, any bundled additional Product from which consumers cannot optout, as well as
15 any Upsell that uses a pre-checked checkbox.
16

17 12. **“In Close Proximity”** means for any communication presented solely through visual
18 means: on the same webpage, online service page, mobile device screen, or other electronic
19 page, and immediately adjacent to the cost-related claim and viewable in conjunction with the
20 cost-related claim in such a manner that the communication is viewable without requiring the
21 consumer to scroll up, down, or sideways, or otherwise adjust their browser window or mobile
22 device window in any way. Representations or disclosures in response to cost-related claims that
23 are accessed or displayed through hyperlinks, pop-ups, interstitials, or other means are NOT “In
24 Close Proximity.”
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1 13. **“Investment Opportunity”** means anything, tangible or intangible, including a program
2 or plan, that is offered for sale, sold, or traded based wholly or in part on representations, either
3 express or implied, about past, present, or future income, earnings, profit, or appreciation.

4 14. **“IWorks Defendant(s)”** means the Corporate Defendants and Jeremy Johnson, Duane
5 Fielding, Andy Johnson, Loyd Johnston, Scott Leavitt, Scott Muir, Bryce Payne, Kevin Pilon,
6 Ryan Riddle, and Duane Spinks, individually, collectively, or in any combination.

7 15. **“Marketing Affiliate”** means any person or entity, including third-party marketers and
8 Affiliate Networks, who participates in an Affiliate Program.

9 16. **“Material”** means likely to affect a person’s choice of, or conduct regarding, a Product.

10 17. **“Merchant Account”** means any account with an acquiring bank or other Financial
11 Institution, service provider, payment processor, independent sales organization, or other entity
12 that enables an individual, a business, or other organization to accept payments of any kind.
13

14 18. **“Negative Option Feature”** means, in an offer or agreement to sell or provide any
15 Product, a provision under which the customer’s silence or failure to take an affirmative action to
16 reject a Product or to cancel the agreement is interpreted by the seller or provider as acceptance
17 of the offer.
18

19 19. **“Primary Product”** means the chief or principal Product that is the subject of the
20 marketing materials or sales offers.
21

22 20. **“Product”** means products, goods, and services, and includes online memberships.

23 21. **“Receiver”** means Robb Evans & Associates, the receiver appointed by the Court’s
24 Preliminary Injunction entered on February 10, 2011 [ECF No. 130].

25 22. **“Sensitive Personal Information”** means nonpublic information concerning an
26 individual consumer, including, but not limited to: Social Security number, in whole or in part;
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1 credit and/or debit card information, in whole or in part, including credit and/or debit card
2 number, expiration date, and transaction detail records; Financial Institution account information
3 or transaction records, in whole or in part, including the ABA routing number, account number,
4 check number, and transaction detail records; and account information or transaction records
5 relating to nontraditional payment systems, such as any telecommunications billing system,
6 PayPal, and BillMeLater.
7

8 23. **“Upsell”** means any Product that is offered to the consumer at the time the consumer
9 purchases the Primary Product.

10 **I.**

11 **CONDUCT PROHIBITIONS**

12 **IT IS ORDERED** that Duane Fielding and his agents, employees, and attorneys, and all
13 other persons in active concert or participation with Duane Fielding, who receive actual notice of
14 this Order, whether acting directly or indirectly, are permanently restrained and enjoined from:
15

16 A. Advertising, marketing, promoting, offering for sale, or selling any Grant Product or
17 Assisting Others engaged in advertising, marketing, promoting, offering for sale, or selling any
18 Grant Product;

19 B. Advertising, marketing, promoting, offering for sale, or selling any Investment
20 Opportunity or Assisting Others engaged in advertising, marketing, promoting, offering for sale,
21 or selling any Investment Opportunity; provided, however, that the prohibition against Assisting
22 Others shall not apply to Duane Fielding in his duties as a non-supervisor or non-manager of any
23 publicly-traded company in which Duane Fielding:
24

25 1. owns one (1) percent or less of the outstanding common shares or preferred
26 shares; or
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- 1 1. Misrepresenting or assisting others in misrepresenting, either directly or
2 indirectly, expressly or by implication:
 - 3 a. That government grants are generally available to individuals to pay
4 personal expenses;
 - 5 b. That consumers will be able to find government grants to pay personal
6 expenses using materials provided by, marketed by, or advertised by
7 Duane Fielding;
 - 8 c. That consumers who purchase an Investment Opportunity provided by,
9 marketed by, or advertised by Duane Fielding are likely to make money;
 - 10 d. The income, earnings, profits, or sales volume likely to be achieved from
11 an Investment Opportunity;
 - 12 e. Any Material aspect of a Continuity Program or of a Negative Option
13 Feature including, but not limited to, the fact that the customer's account
14 will be charged unless the customer takes an affirmative action to avoid
15 the charge(s), the date(s) the charge(s) will be submitted for payment, and
16 the specific steps the customer must take to avoid the charge(s);
 - 17 f. The total cost to purchase, receive, or use, and the quantity of, any Product
18 that is the subject of the sales offer;
 - 19 g. The risks associated with a Product, including that a Product is risk-free,
20 low risk, or otherwise results in no obligation to the consumer;
 - 21 h. Any Material restrictions, limitations, or conditions to purchase, receive,
22 or use any Product that is the subject of the sales offer;
 - 23 i. Any Material aspect of the performance, efficacy, nature, or central
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- 1 characteristics of any Product that is the subject of the sales offer;
- 2 j. Any Material aspect of the nature or terms of the seller’s refund,
- 3 cancellation, exchange, or repurchase policies;
- 4 k. The status of any user or Endorser of a Product, including, but not limited
- 5 to, misrepresenting that the user or Endorser is an independent user or
- 6 ordinary, unbiased consumer of the Product; or
- 7
- 8 l. That consumer Endorsements reflect typical consumer experiences with a
- 9 Product;
- 10 2. Failing to disclose Clearly and Conspicuously:
- 11 a. The total cost to purchase, receive, or use any Product that is the subject of
- 12 the sales offer;
- 13
- 14 b. The total cost to purchase, receive, or use any Product in equal or greater
- 15 size and prominence, and In Close Proximity to, any request that
- 16 consumers provide their name, address, telephone number, email address,
- 17 or any Sensitive Personal Information;
- 18
- 19 c. The total cost to purchase, receive, or use any Product subject to the sales
- 20 offer, in equal or greater size and prominence, and In Close Proximity to,
- 21 any cost-related claim including, but not limited to, any claim that the
- 22 Product is “free,” has a minimal cost, or is being offered on a trial basis or
- 23 at an introductory or limited-time reduced cost;
- 24
- 25 d. All Material terms and conditions of any Negative Option Feature
- 26 including, but not limited to, the fact that the customer’s account will be
- 27 charged unless the customer takes an affirmative action to avoid the

1 charge(s), the date(s) the charge(s) will be submitted for payment, and the
2 specific steps the customer must take to avoid the charge(s);

3 e. All Material terms and conditions of any Negative Option Feature
4 including, but not limited to, the fact that the customer's account will be
5 charged unless the customer takes an affirmative action to avoid the
6 charge(s), the date(s) the charge(s) will be submitted for payment, and the
7 specific steps the customer must take to avoid the charge(s) in equal or
8 greater size and prominence, and In Close Proximity to, any request that
9 consumers provide their name, address, telephone number, email address,
10 or any Sensitive Personal Information;

11
12 f. All Material terms and conditions of any Continuity Plan;

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14 g. All Material terms and conditions of any Continuity Plan in equal or
15 greater size and prominence, and In Close Proximity to, any request that
16 consumers provide their name, address, telephone number, email address,
17 or any Sensitive Personal Information;

18 h. All Material terms and conditions of any Continuity Plan or Negative
19 Option Feature in equal or greater size and prominence, and In Close
20 Proximity to, any cost-related claim including, but not limited to, any
21 claim that a product is "free" or "no cost," if a cost-related claim is made
22 in the course of advertising, offering for sale, or otherwise marketing any
23 Product; and

24
25 i. All Material terms and conditions of any Continuity Program or Negative
26 Option Feature in equal or greater size and prominence, and In Close
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1 Proximity to, any claim about risks associated with a Product, including
2 claims that a Product is risk-free, low risk, or otherwise results in no
3 obligation to the consumer, if such claim is made in the course of
4 advertising, offering for sale, or otherwise marketing any Product;

5
6 3. Failing to disclose Clearly and Conspicuously any other Material information,
7 including:

- 8 a. The quantity of any Product that is the subject of the sales offer;
- 9 b. Any Material term or condition including, but not limited to, any
10 restrictions, limitations, or conditions to purchase, receive, or use any
11 Product that is the subject of the sales offer;
- 12 c. Any Material aspect of the nature or terms of a refund, cancellation,
13 exchange, or repurchase policy for any Product including, but not limited
14 to, if there is a policy of not making refunds, cancellations, exchanges, or
15 repurchases;
- 16
17 d. That Endorsers received funds or some other benefit, directly or indirectly,
18 from any individual or entity manufacturing, advertising, labeling,
19 promoting, offering for sale, selling, or distributing a Product that is the
20 subject of an Endorsement including, but not limited to, if Endorsers
21 received funds or some other benefit from a non-profit charitable fund that
22 is directly or indirectly associated with any individual or entity
23 manufacturing, advertising, labeling, promoting, offering for sale, selling,
24 or distributing a Product that is the subject of an Endorsement, *provided*
25 *that*, this provision shall not apply where (1) the Endorser is an expert or
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1 Person known to a significant portion of the viewing public, and (2) the
2 endorsement appears in an advertisement where payment would be
3 ordinarily expected by viewers; and

4 e. Any Material Connection, when one exists, between any user or Endorser
5 and any other individual or entity manufacturing, advertising, labeling,
6 promoting, offering for sale, selling, or distributing a Product;
7

8 B. Duane Fielding and his agents, employees, and attorneys, and all other persons in active
9 concert or participation with Duane Fielding, who receive actual notice of this Order, whether
10 acting directly or indirectly, in connection with the sale of any Product, are permanently
11 restrained and enjoined from charging or debiting a consumer's bank, credit, or other financial
12 account, or otherwise assessing charges to a consumer, without first obtaining the consumer's
13 Express Verifiable Authorization; and
14

15 C. In connection with applying for or maintaining Merchant Accounts, Duane Fielding and
16 his agents, employees, and attorneys, and all other persons in active concert or participation with
17 Duane Fielding, who receive actual notice of this Order, whether acting directly or indirectly, are
18 permanently restrained and enjoined from:

19 1. Making or assisting others in making, expressly or by implication, any false or
20 misleading statement or representation including, but not limited to, any statement
21 or representation concerning the identity of the owner, manager, director, or
22 officer of the applicant for or holder of a Merchant Account, to an acquiring bank
23 or other Financial Institution, service provider, payment processor, independent
24 sales organization, or other entity that enables an individual, a business, or other
25 organization to accept payments of any kind; or
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1 205.10 of the Federal Reserve Board’s Official Staff Commentary to Regulation E, 12 C.F.R. §
2 205.10(b) (5) and (6), Supp. I;

3 B. Engaging in any recurring debiting of a consumer’s account without first providing a
4 copy of a valid written pre-authorization to the consumer for preauthorized electronic fund
5 transfers from the consumer’s account, which copy is clear and readily understandable,
6 identifiable as a pre-authorization, and reflects the consumer’s assent, as required by Section
7 907(a) of EFTA, 15 U.S.C. § 1693e(a), and Section 205.10(b) of Regulation E, as more fully set
8 out in Section 205.10 of the Federal Reserve Board’s Official Staff Commentary to Regulation
9 E, 12 C.F.R. § 205.10(b)(5) and (6), Supp. I; and

10
11 C. Failing to maintain procedures reasonably adapted to avoid an unintentional failure to
12 obtain a written authorization for preauthorized electronic fund transfers, as required in Section
13 205.10(b)(7) of the Federal Reserve Board’s Official Staff Commentary to Regulation E.
14

15 **IV.**

16 **MONETARY RELIEF**

17 **IT IS FURTHER ORDERED** that:

18 A. Immediately upon entry of this Order, the Fielding Defendants are ordered to surrender to
19 the Commission all control, title, dominion, and interest each has in the following assets:

- 20 1. All interest the Fielding Defendants have in funds in any accounts in the name of
21 the Corporate Defendants;
- 22 2. All cash held by the Receiver, and
- 23 3. All assets owned by Corporate Defendants, including any real, personal, or
24 intellectual property, chattel, goods, instruments, equipment, fixtures, general
25 intangibles, effects, leaseholds, contracts, mail or other deliveries, shares or stock,
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1 securities, inventory, checks, notes, accounts, credits, receivables (as those terms
2 are defined in the Uniform Commercial Code), insurance policies, lines of credit,
3 cash, trusts (including asset protection trusts), lists of consumer names and
4 reserve funds or any other accounts associated with any payments processed by,
5 or on behalf of, any Corporate Defendants;

6
7 B. To the extent they are not already in the possession of the Receiver, the Fielding
8 Defendants shall deliver possession to the Receiver of the assets identified in Subsection A.

9 C. The Receiver shall, as soon as practicable, commence the sale of the unliquidated assets
10 identified in Subsection A and surrendered pursuant to this Order using a commercially-
11 reasonable procedure. The Receiver shall hold the surrendered assets, and the proceeds from the
12 sale of the unliquidated assets, for future transfer in accordance with further instructions from the
13 Court.

14
15 D. The Fielding Defendants relinquish dominion and all legal and equitable right, title, and
16 interest in all assets transferred pursuant to the Order and may not seek the return of any assets.

17 E. The facts alleged in the Amended Complaint will be taken as true, without further proof,
18 in any subsequent civil litigation by or on behalf of the Commission, including in a proceeding to
19 enforce its rights to any payment pursuant to this Order, such as a nondischargeability complaint
20 in any bankruptcy case.

21
22 F. The facts alleged in the Amended Complaint establish all elements necessary to sustain
23 an action by the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11
24 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

1 G. Duane Fielding acknowledges that his Social Security Number, which he has previously
2 submitted to the Commission, may be used for collecting and reporting on any delinquent
3 amount arising out of the Order, in accordance with 31 U.S.C. § 7701.

4 H. All money paid to the Commission pursuant to this Order may be deposited into a fund
5 administered by the Commission or its designee to be used for equitable relief, including
6 consumer redress and any attendant expenses for the administration of any redress fund. If a
7 representative of the Commission decides that direct redress to consumers is wholly or partially
8 impracticable or money remains after redress is completed, the Commission may apply any
9 remaining money for such other equitable relief (including consumer information remedies) as it
10 determines to be reasonably related to the IWorks Defendants' practices alleged in the Amended
11 Complaint. Any money not used for such equitable relief is to be deposited to the U.S. Treasury
12 as disgorgement. The Fielding Defendants have no right to challenge any actions the
13 Commission or its representatives may take pursuant to this Subsection.

14 J. Following the Fielding Defendants' full completion of their obligations under subsections
15 A-D of this Section, the Receiver shall take the necessary steps to dissolve Anthon Holdings, Inc.
16 and Network Agenda, LLC

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19 **V.**

20 **BAN ON USE OF CONSUMER INFORMATION**

21 **IT IS FURTHER ORDERED** that Duane Fielding and his agents, employees, and
22 attorneys, and all other persons in active concert or participation with Duane Fielding, who
23 receive actual notice of this Order, are permanently restrained and enjoined from:

24 A. Disclosing to any third party, using, or benefitting from consumer information, including
25 the name, address, telephone number, email address, Social Security number, other identifying
26

1 information, or any data that enables access to a consumer's account (including a credit card,
2 bank account, or other financial account), or would otherwise allow the assessing of a charge
3 against a consumer's account, of any person which the IWorks Defendants obtained prior to
4 entry of this Order in connection with the advertising, marketing, promotion, or offering of any
5 Product;

6
7 B. Failing to provide to the Receiver such consumer information in all forms that is in
8 Duane Fielding's possession, custody, or control within five (5) business days after entry of this
9 Order; and

10 C. Failing to dispose of such consumer information in all forms that is in Duane Fielding's
11 possession, custody, or control within fifteen (15) days after entry of this Order. Disposal shall
12 be by means that protect against unauthorized access to the consumer information, such as by
13 burning, pulverizing, or shredding any papers, and by erasing or destroying any electronic media,
14 to ensure that the consumer information cannot practicably be read or reconstructed.
15

16 *Provided, however,* that consumer information need not be disposed of, and may be
17 disclosed, to the extent requested by a government agency or required by a law, regulation, or
18 court order.

19
20 **VI.**

21 **ORDER ACKNOWLEDGMENTS**

22 **IT IS FURTHER ORDERED** that:

23 A. Duane Fielding, within seven (7) days of entry of this Order, must submit to the
24 Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

25
26 B. For eight (8) years after entry of this Order, Duane Fielding, for any business for which
27 he individually or collectively with any other IWorks Defendant is the majority owner or

28 Stipulated Final Order as to Duane Fielding,
Anthon Holdings, Inc. and Network Agenda, LLC

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

7
8 C. From each individual or entity to which Duane Fielding delivered a copy of this Order,
9 Duane Fielding must obtain, within thirty (30) days, a signed and dated acknowledgment of
10 receipt of this Order.

11 **VII.**

12 **COMPLIANCE REPORTING**

13 **IT IS FURTHER ORDERED** that Duane Fielding make timely submissions to the
14 Commission:
15

16 A. One year after entry of this Order, Duane Fielding must submit a compliance report,
17 sworn under penalty of perjury:

- 18 1. Duane Fielding must: (a) identify the primary physical, postal, and email address
19 and telephone number, as designated points of contact, which representatives of
20 the Commission may use to communicate with him; (b) identify all of his
21 businesses by all of their names, telephone numbers, and physical, postal, email,
22 and Internet addresses; (c) describe the activities of each business, including the
23 goods and services offered, the means of advertising, marketing, and sales, and
24 the involvement of any other IWorks Defendant (which Duane Fielding must
25 describe if he knows or should know due to his own involvement); (d) describe in
26
27

1 detail whether Duane Fielding is in compliance with each Section of this Order;
2 and (e) provide a copy of each Order Acknowledgment obtained pursuant to this
3 Order, unless previously submitted to the Commission.

- 4 2. Additionally, Duane Fielding must: (a) identify all telephone numbers and all
5 physical, postal, email and Internet addresses, including all residences; (b)
6 identify all business activities, including any business for which he performs
7 services whether as an employee or otherwise and any entity in which he has any
8 ownership interest; and (c) describe in detail his involvement in each such
9 business, including title, role, responsibilities, participation, authority, control,
10 and any ownership.
11

12 B. For eight (8) years after entry of this Order, Duane Fielding must submit a compliance
13 notice, sworn under penalty of perjury, within fourteen (14) days of any change in the following:
14

- 15 1. Duane Fielding must report any change in: (a) any designated point of contact; or
16 (b) any entity in which Duane Fielding has any ownership interest in or controls
17 directly or indirectly that may affect compliance obligations arising under this
18 Order, including: creation, merger, sale, or dissolution of the entity or any
19 subsidiary, parent, or affiliate that engages in any acts or practices subject to this
20 Order.
21
- 22 2. Additionally, Duane Fielding must report any change in: (a) name, including
23 aliases or fictitious name, or residence address; or (b) title or role in any business
24 activity, including any business for which he performs services whether as an
25 employee or otherwise and any entity in which he has any ownership interest, and
26
27
28

1 identify the name, physical address, and any Internet address of the business or
2 entity.

3 C. Duane Fielding must submit to the Commission notice of the filing of any bankruptcy
4 petition, insolvency proceeding, or similar proceeding by or against him within fourteen (14)
5 days of its filing.
6

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

13 E. Unless otherwise directed by a Commission representative in writing, all submissions to
14 the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight
15 courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of
16 Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington,
17 DC 20580. The subject line must begin: FTC v. Jeremy Johnson, et al., Fielding—X110011.
18

19 VIII.

20 RECORDKEEPING

21 **IT IS FURTHER ORDERED** that Duane Fielding must create certain records for eight
22 (8) years after entry of the Order, and retain each such record for five (5) years. Specifically,
23 Duane Fielding, for any business that he, individually or collectively with any other IWorks
24 Defendant, is a majority owner or controls directly or indirectly, must create and retain the
25 following records:

26 A. Accounting records showing the revenues from all goods or services sold;
27

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

4 C. Records of all consumer complaints and refund requests, whether received directly or
5 indirectly, such as through a third party, and any response;

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

8 E. Non-duplicative copies of any advertisement or other marketing material, including web
9 pages, pop ups, email advertisements, and any audio files related to them.
10

11 Nothing in this Section shall relieve Duane Fielding of any responsibility under the
12 Section entitled "Monitoring By Duane Fielding."
13

14 **IX.**

15 **COMPLIANCE MONITORING**

16 **IT IS FURTHER ORDERED** that, for the purpose of monitoring Duane Fielding's
17 compliance with this Order,:

18 A. Within fourteen (14) days of receipt of a written request from a representative of the
19 Commission, Duane Fielding must: submit additional compliance reports or other requested
20 information, which must be sworn under penalty of perjury; appear for depositions; and produce
21 documents for inspection and copying. The Commission is also authorized to obtain discovery,
22 without further leave of court, using any of the procedures prescribed by Federal Rules of Civil
23 Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.
24

25 B. For matters concerning this Order, the Commission is authorized to communicate
26 directly with Duane Fielding. Duane Fielding must permit representatives of the Commission to
27

1 interview any employee or other person affiliated with him who has agreed to such an interview.

2 The person interviewed may have counsel present.

3 C. The Commission may use all other lawful means, including posing, through their
4 representatives as consumers, suppliers, or other individuals or entities, to Duane Fielding or to
5 any entity in which he has any ownership interest, or any individual or entity affiliated with
6 Duane Fielding, without the necessity of identification or prior notice. Nothing in this Order
7 limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the
8 FTC Act, 15 U.S.C. §§ 49, 57b-1.

9 D. Upon written request from a representative of the Commission, any consumer reporting
10 agency must furnish consumer reports concerning the Fielding Defendants, pursuant to Section
11 604(1) of the Fair Credit Reporting Act, 15 U.S.C. §1681b(a)(1).
12
13

14 **X.**

15 **RETENTION OF JURISDICTION**

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

18 The parties, and their respective counsel, hereby consent to the terms and conditions of
19 the Order as set forth above and consent to the immediate entry thereof.
20

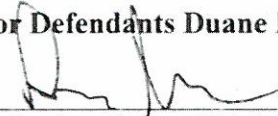
21 **SO ORDERED**, this 25th day of October, 2016 at 8:31 p.m., Pacific Daylight Time.

22 


23 MIRANDA M. DU
24 United States District Judge

1 **STIPULATED AND AGREED TO BY:**

2
3 **For Defendants Duane Fielding, Anthon Holdings, Inc. and Network Agenda, LLC**

4 
5 Defendant Duane Fielding

Date: 10-13-16

6 
7 Karra J. Porter
8 Phillip E. Lowry, Jr.
9 Sara E. Spencer
10 CHRISTENSEN & JENSEN, P.C.


Date:
10/13/16

11 
12 Kelly H. Macfarlane

Date:
10/13/16

13 KELLY H. MACFARLANE, PLLC.
14 *Attorneys for Duane Fielding, Anthon Holdings, Inc. and Network Agenda, LLC*

15
16
17 **For Plaintiff Federal Trade Commission:**

18 
19 Collot Guerard
20 Dotan Weinman
21 Roberto Anguizola
22 Attorneys for Plaintiff
23 Federal Trade Commission
24 600 Pennsylvania Avenue, NW
25 Room 8602
26 Washington, DC 20580

Date: 10/24/16



27
28 Stipulated Final Order as to Duane Fielding,
Anthon Holdings, Inc. and Network Agenda, LLC