

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

FEDERAL TRADE COMMISSION,
COMMONWEALTH OF VIRGINIA
EX REL. JERRY W. KILGORE,
ATTORNEY GENERAL OF VIRGINIA,
STATE OF NORTH CAROLINA
EX REL. ROY COOPER,
ATTORNEY GENERAL OF
NORTH CAROLINA and
STATE OF WISCONSIN,
EX REL. JAMES E. DOYLE,
ATTORNEY GENERAL OF
WISCONSIN,

Plaintiffs,

v.

THE TUNGSTEN GROUP, INC.,
a corporation, also doing business as American
Savings Discount Club, also doing business as Auto
Services Discount Club, also doing business as
ASDC, also doing business as TTG Financial;
THE TUNGSTEN GROUP II, INC.,
a corporation, also doing business as American
Savings Discount Club, also doing business as
ASDC;
ROBERT J. DEMELLWEEK,
individually, and as an officer of the Tungsten Group
and the Tungsten Group II; and
DAVID VINCENT JENSEN,
individually, and as an officer of the Tungsten Group
II,

Defendants.

Case No. 2:01 CV 773

**STIPULATED FINAL ORDER
AND PERMANENT
INJUNCTION**

Plaintiffs — the Federal Trade Commission (“Commission”), the Commonwealth of Virginia *ex rel.* Jerry W. Kilgore, Attorney General of Virginia, the State of North Carolina *ex rel.* Roy Cooper, Attorney General of North Carolina, and the State of Wisconsin *ex rel.* James E. Doyle, Attorney General of Wisconsin — filed on October 15, 2001, a Complaint for a permanent injunction and other relief, including consumer redress, pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b) and 57b, the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101 *et seq.*, the Virginia Consumer Protection Act, Va. Code § 59.1-196 *et seq.*, the Virginia Home Solicitation Sales Act, Va. Code § 59.1-21.1 *et seq.*, the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. § 75-1.1 *et seq.*, the North Carolina Telephonic Seller Registration and Bonding Act, N.C. Gen. Stat. § 66-260 *et seq.*, and the Wisconsin Fraudulent Representations Act, Wis. Stat. § 100.18(1) *et seq.*

Also on October 15, 2001, the Court entered, *ex parte*, a temporary restraining order and an order to show cause why a preliminary injunction should not be granted. Plaintiffs and Defendants — The Tungsten Group, Inc., The Tungsten Group II, Inc., Robert J. Demellweek, and David Vincent Jensen — signed a stipulated preliminary injunction which this Court entered on December 4, 2001. The Court also entered a Memorandum Order the same day. Plaintiffs and Defendants now enter into this Stipulated Final Order and Permanent Injunction.

FINDINGS

By the stipulation of the parties, and without any Defendant admitting liability for any of the violations alleged in the Complaint, the Court makes the following findings:

1. Plaintiffs allege that Defendants have violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), the Federal Trade Commission’s Trade Regulation Rule entitled “Telemarketing Sales Rule,” 16 C.F.R. Part 310, the Telemarketing Act, 15 U.S.C. § 6101 *et seq.*, the Virginia Consumer Protection Act, Va. Code § 59.1-196 *et seq.*, the Virginia Home Solicitation Sales Act, Va. Code § 59.1-21.1 *et seq.*, the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. § 75-1.1 *et seq.*, the North Carolina Telephonic Seller Registration and Bonding Act, N.C. Gen. Stat. § 66-260 *et seq.*, and the Wisconsin Fraudulent Representations Act, Wis. Stat. § 100.18(1) *et seq.*

2. This Court has jurisdiction over the subject matter of this case and of the parties to this action under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1367, and 15 U.S.C. §§ 45(a), 53(b), 57b, 6102(c), 6103(a), and 6105(b). Venue in the Eastern District of Virginia is proper under 28 U.S.C. §§ 1391(b), (c), and (d), and 15 U.S.C. §§ 53(b) and 6103(e).

3. Plaintiffs have the authority to seek the relief they have requested.

4. The Complaint states a claim upon which injunctive relief may be granted against Defendants under Sections 5(a), 13(b), and 19 of the FTC Act, 15 U.S.C. §§ 45(a), 53(b), and 57b, the Telemarketing Act, 15 U.S.C. §§ 6103, 6105, the Virginia Consumer Protection Act, Va. Code §§ 59.1-200 and 59.1-203, the Virginia Home Solicitation Sales Act, Va. Code § 59.1-21.7:1, the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. § 75-14, the North Carolina Telephonic Seller Registration and Bonding Act, N.C. Gen. Stat. § 66-266, and the Wisconsin Fraudulent Representations Act, Wis. Stat. § 100.18(11)(d).

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

6. By stipulating and consenting to the entry of this Stipulated Final Order and Permanent Injunction, Defendants do not admit any of the allegations in the Complaint, except those contained in Paragraphs 1 through 6 therein. Likewise, by executing this Order, Plaintiffs do not admit that any defense to the Complaint is valid. This Order does not constitute a finding by the Court that Defendants engaged in violation of any law or regulation.

7. The Court entered a Temporary Restraining Order in this matter on October 15, 2001, and entered Stipulated Orders extending and modifying the Temporary Restraining Order on October 25, October 31, November 6, and November 8, 2001.

8. On December 4, 2001, the Court entered a stipulated preliminary injunction and a Memorandum Order.

9. This action and the relief ordered herein are in addition to, and not in lieu of, other remedies as may be provided by law, including both civil and criminal remedies.

10. The parties agree that this Order shall be construed as solely remedial in nature, and shall not be construed as the payment of any fine, penalty, punitive assessment, or forfeiture.

11. The parties waive all rights to seek judicial review of, or otherwise challenge or contest the validity of, this Order or the temporary or preliminary orders entered in this proceeding. Defendants also waive any claim that they may have held under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action to the date of the entry of this Stipulated Final Order and Permanent Injunction. Defendants further waive and release any claim they may have against the Plaintiffs, the Receiver, or their employees, agents, or representatives. The Plaintiffs waive and release all civil consumer protection and trade practices claims they may have against Robert J. Demellweek and David

Vincent Jensen arising from the allegations in the Complaint in this action. The Receiver, on behalf of herself and the Receivership estate, waives and releases all claims she may have against Robert J. Demellweek and David Vincent Jensen and their attorneys.

12. Defendants consent freely and without coercion to entry of this Stipulated Final Order and Permanent Injunction in the interest of settling this litigation, and acknowledge that they understand the provisions of this Order and are prepared to abide by its terms. At all times, Defendants have been represented by counsel, including during the negotiations that led to this Order.

13. Any voluntary bankruptcy petition filed by any Defendant does not automatically stay this action, which the Court finds is the “commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit’s police or regulatory power,” as set forth in 11 U.S.C. § 362(b)(4).

14. Any voluntary bankruptcy petition filed by any Defendant does not divest this Court of jurisdiction to enter this Stipulated Final Order and Permanent Injunction against Defendants.

15. Entry of this Order is in the public interest.

ORDER

I. DEFINITIONS

IT IS THEREFORE ORDERED that the following Definitions shall apply:

1. “Individual Defendants” means Robert J. Demellweek and David Vincent Jensen, and each of them, and their successors, assigns, officers, agents, servants, employees, and those persons or entities 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, limited liability company, subsidiary, division, partnership, consulting agreement, or other device; “Receivership Defendants” means The Tungsten Group, Inc., and The Tungsten Group II, Inc., which also do business as American Savings Discount Club, Auto Services Discount Club, ASDC, American Savings, and TTG Financial, and possibly other fictitious names, Demellweek Holdings, LLC, Jensen Holdings, LLC, and each of them, and their successors, assigns, officers, agents, servants, employees, and those persons or entities 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, limited liability company, subsidiary, division, partnership, consulting agreement, or other device; “Defendants” means the individual and Receivership Defendants or any of them.

2. “Plaintiffs” means the Federal Trade Commission, the Commonwealth of Virginia *ex rel.* Jerry W. Kilgore, Attorney General of Virginia, the State of North Carolina *ex rel.* Roy Cooper, Attorney General of North Carolina, and the State of Wisconsin *ex rel.* James E. Doyle, Attorney General of Wisconsin, or any of the above.

3. The terms “and” and “or” shall be construed conjunctively or disjunctively as necessary, and to make the applicable phrase or sentence inclusive rather than exclusive.

4. “Assets” means all real and personal property owned or controlled by any Defendant, or held for the benefit of any Defendant, including — but not limited to — “goods,” “instruments,” “equipment,” “fixtures,” “general intangibles,” “inventory,” “checks” or “notes” (as these terms are defined in the Uniform Commercial Code), and all cash, wherever located.

5. “Assisting others” means knowingly providing any of the following goods or services to another entity: (1) performing customer service functions, including, but not limited to, receiving or

responding to customer complaints; (2) formulating or providing, or arranging for the formulation or provision of, any telephone sales script or any other marketing material; (3) providing names of, or assisting in the generation of, potential customers; or (4) performing marketing services of any kind.

6. “Consumer good or service” means any good or service purchased, leased, or rented primarily for personal, household, or family purposes.

7. “Customer” includes any individual, group, unincorporated association, limited or general partnership, corporation or other business entity.

8. “Credit-related” includes loans or other extensions of credit, arranging or obtaining loans or other extensions of credit, or providing advice or assistance with respect to obtaining loans or other extensions of credit.

9. “Document” is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a). A draft or non-identical copy is a separate document within the meaning of the term.

10. “Person” means a natural person, organization or other legal entity, including a corporation, partnership, proprietorship, association, cooperative, government or governmental subdivision or agency, or any other group or combination acting as an entity.

11. “Telephone solicitation” is synonymous with the term “telemarketing,” as defined in the Telemarketing Sales Rule, 16 CFR Part 310, except that the term “telephone solicitation” shall also include intra-state calls that would satisfy the definition of “telemarketing” had they been made inter-state.

II. PROHIBITED BUSINESS ACTIVITIES

A. **IT IS FURTHER ORDERED** that the individual Defendants are hereby permanently restrained and enjoined from receiving any remuneration of any kind whatsoever from, engaging or participating in, or assisting others who are engaging or participating in, any business activity involving the telephone solicitation of credit-related products or services, including, but not limited to, (i) initiating or receiving credit-related telephone solicitations; (ii) managing others who initiate or receive credit-related telephone solicitations; (iii) operating an enterprise that initiates or receives credit-related telephone solicitations; (iv) owning or serving as an officer or director of an enterprise that initiates or receives credit-related telephone solicitations; (v) otherwise working as an employee or independent contractor with a unit or division of an enterprise that initiates or receives credit-related telephone solicitations; or (vi) serving as a paid or compensated consultant to any person, partnership, or business entity engaged in credit-related telephone solicitation activity.

B. **IT IS FURTHER ORDERED** that, notwithstanding the provisions of Subpart A, above, the individual Defendants are hereby restrained and enjoined for a period of three (3) years following entry of this order from receiving any remuneration of any kind whatsoever from, engaging or participating in, or assisting others who are engaging or participating in, any business activity involving telephone solicitations of any kind, including, but not limited to, (i) initiating or receiving telephone solicitations; (ii) managing others who initiate or receive telephone solicitations; (iii) operating an enterprise that initiates or receives telephone solicitations; (iv) owning or serving as an officer or director of an enterprise that initiates or receives telephone solicitations; (v) otherwise working as an employee or independent contractor with a unit or division of an enterprise that initiates or receives telephone solicitations; or (vi) serving as a paid or

compensated consultant to any person, partnership, or business entity engaged in telephone solicitation activity.

C. **IT IS FURTHER ORDERED** that, notwithstanding the provisions of Subparts A and B, above, the individual Defendants are hereby restrained and enjoined for a period of three (3) years following entry of this order from receiving any remuneration of any kind whatsoever from, engaging or participating in, or assisting others who are engaging or participating in, any business activity involving the offer or sale, by any means, of credit-related products or services.

D. **IT IS FURTHER ORDERED** that, notwithstanding the provisions of Subparts A through C, above, after the three (3) year period described in Subparts B and C, above, each individual Defendant is hereby permanently restrained and enjoined from receiving any remuneration of any kind whatsoever from, engaging or participating in, or assisting others who are engaging or participating in, any business activity involving either non-credit-related telephone solicitations or the offer or sale of credit-related products or services via means other than by telephone solicitation, unless he first obtains a performance bond in the principal sum of five hundred thousand dollars (\$500,000).

1. Any such bond shall be conditioned upon compliance with Section 5 of the FTC Act, 15 U.S.C. § 45(a), with the Telemarketing Sales Rule, 16 CFR Part 310, and with the provisions of this Order. The bond shall be deemed continuous and remain in full force and effect as long as the individual Defendant continues to engage in conduct that requires the posting of the bond, and for at least three years after the individual Defendant has ceased to engage in such conduct. The bond shall cite this Order as the subject matter of the bond, and shall provide surety thereunder against financial loss resulting from whole or partial failure of performance due, in whole or in part, to any violation of Section 5 of the FTC Act, the Telemarketing Sales Rule, the provisions of this Order, or to any other violation of law.
2. The performance bond required pursuant to this Subpart D shall be an insurance agreement providing surety for financial loss issued by a surety company that is

admitted to do business in each of the states in which the individual Defendant does business and that holds a Federal Certificate of Authority As Acceptable Surety On Federal Bond and Reinsuring. Such performance bond shall be in favor of: (1) each Plaintiff, for the benefit of any customer injured as a result of any violation of Section 5 of the FTC Act, the Telemarketing Sales Rule, or the provisions of this Order committed by an individual Defendant, his agents, or any persons acting in concert with him; and (2) any customer so injured.

3. The bond required pursuant to this Subpart D is in addition to, and not in lieu of, any other bond required by any other federal, state, or local law, or by any other court order not entered in this action, except that, to the extent allowed by law, the bond required pursuant to this Subpart D may satisfy any performance bond required by any other federal, state or local law where such law requires a performance bond for the amount of five hundred thousand dollars (\$500,000) or less.
4. At least ten business days before an individual Defendant commences receiving any remuneration of any kind whatsoever from, engaging or participating in, or assisting others who are engaging or participating in, any business activity involving either non-credit-related telephone solicitations or the offer or sale of credit-related products or services via means other than by telephone solicitation, the Defendant shall provide the bond required by this Subpart D to the Plaintiffs at the addresses specified in **Section XIV.D** of this Order.
5. No Defendant shall disclose the existence of a performance bond required by this Subpart D to any customer without also disclosing clearly and prominently, at the same time, the following phrase: "This bond is required by order of the U.S. District Court, in the case FTC, et al. v. The Tungsten Group, Inc., et al., Case No. 2:01 CV 773 (E.D. Va.), in settlement of allegations of false and misleading representations in the promotion and sale of goods and services." The disclosure shall be set forth in a clear and conspicuous manner, separated from all other text, in 100% black ink against a light background, in print at least as large as the main text of the sales material or document, and enclosed in a box containing only the required disclosure.
6. If, upon motion by any Plaintiff, the Court finds that an individual Defendant or any business in which the Defendant engages or participates, has violated Section 5 of the FTC Act, the Telemarketing Sales Rule, or this Order, the Plaintiff may execute against the performance bond required by this Subpart D. Proceedings instituted under this sub-paragraph 6 are in addition to, and not in lieu of, any other civil or criminal remedies as may be provided by law, including any other proceedings a Plaintiff may initiate to enforce this Order.

PROVIDED, however, that this **Section II** shall not prohibit the individual Defendants from working for any person that engages or participates in telephone solicitations under the following conditions:

1. The individual Defendants perform work unrelated to the telephone solicitation activity of the person and are not, directly or indirectly, receiving remuneration for, engaging or participating in, or supervising, advising, training, or consulting for those engaging or participating in, telephone solicitations;
2. The individual Defendants perform their work for the person at a different facility from that in which the telephone solicitation activity of the person is conducted; for purposes of this provision, work at a different “facility” means the individual Defendants must work in a different building from the telephone solicitation activity or, if the person has only one building, the individual Defendants must work on a different floor from the telephone solicitation activity, or, if the person has only one floor, the individual Defendants must work in a different room from the telephone solicitation activity;
3. The individual Defendants are not officers or directors of the person;
4. The individual Defendants are not, and have no option or other interest to become, directly or indirectly, a shareholder, partner, or other owner of more than five percent (5%) of the person;
5. The individual Defendants have notified Plaintiffs of their association with the person, including their job title and the name, business address, and business telephone number of the person; and
6. The person does not make telephone solicitations on behalf of other persons.

Any individual Defendant who is uncertain about how this Section and its proviso apply in a specific situation may apply to the Court for clarification or guidance.

III.

PROHIBITED MISREPRESENTATIONS AND MANDATORY COMPLIANCE

A. **IT IS FURTHER ORDERED** that in connection with the offering for sale or sale of any good or service, Defendants are hereby permanently restrained and enjoined from making, or assisting

others in the making of, any express or implied representation of material fact that is false or misleading, including, but not limited to:

1. any misrepresentation that, after paying a fee, a customer will, or is highly likely to, receive a loan or other extension of credit;
2. any misrepresentation that a customer has been pre-approved for a loan or other extension of credit;
3. any misrepresentation that a monthly membership fee is the monthly loan repayment amount;
4. any misrepresentation that any customer payments are refundable.

B. IT IS FURTHER ORDERED that in connection with the offering for sale or sale of any good or service, Defendants are hereby permanently restrained and enjoined from violating, or assisting others in violating, any provision of the Telemarketing Sales Rule, 16 CFR Part 310, including, but not limited to, the following violations:

1. requesting or receiving payment of a fee or consideration in advance of obtaining or arranging a loan or other extension of credit for customers when Defendants have guaranteed or represented a high likelihood of success in obtaining or arranging a loan or other extension of credit for such customers;
2. misrepresenting, directly or by implication, that after paying Defendants a fee, customers will, or are highly likely to, receive a loan or other extension of credit;
3. misrepresenting, directly or by implication, that a customer has been pre-approved for a loan or other extension of credit;
4. misrepresenting, directly or by implication, that a monthly membership fee is the monthly loan repayment amount;
5. misrepresenting, directly or by implication, that any customer payments are refundable.

A copy of the Telemarketing Sales Rule is appended to this Order as **Appendix A** and is incorporated herein as if fully rewritten. In the event that the Telemarketing Sales Rule is amended by the Commission in a manner which would create a new or different standard applicable to Defendants' obligations under this Order, Defendants' compliance with the Telemarketing Sales Rule as so amended shall not be deemed a violation of this Order.

C. **IT IS FURTHER ORDERED** that in connection with the offering for sale or sale of any good or service, Defendants are hereby permanently restrained and enjoined from:

1. misrepresenting that goods or services have certain quantities, characteristics, ingredients, uses, or benefits; and
2. advertising goods or services with intent not to sell them as advertised, or with intent not to sell at the price or upon the terms advertised.

D. **IT IS FURTHER ORDERED** that in connection with a consumer sale or lease of any good or service in which Defendants or a person acting for them engages in a solicitation of the sale or lease in person, or by telephonic or other electronic means, at the buyer's residence in Virginia, Defendants are hereby permanently restrained and enjoined from:

1. failing to provide to the buyer a written statement of the buyer's three-day right to cancel the sale and a form which the buyer can use to give Defendants notice of cancellation of the sale, as required by Virginia law; and
2. failing to return, within ten (10) days of cancellation by a buyer, any payments made by the buyer, as required by Virginia law.

E. **IT IS FURTHER ORDERED** that in connection with the offering for sale or sale of any good or service, Defendants are hereby permanently restrained and enjoined from failing to fully comply with any and all telemarketing registration requirements in each and every state of the United States in which they do business.

F. **IT IS FURTHER ORDERED** that each individual Defendant, in connection with any and every business entity of which he is a majority owner, or which he otherwise manages or controls and where the business is engaged in the sale or marketing of any consumer good or service, is hereby permanently restrained and enjoined from:

1. Failing to take reasonable steps sufficient to monitor and ensure that all employees and independent contractors engaged in sales or other customer service functions comply with **Sections II, III, and IV** of this Order. Such steps shall include adequate monitoring of sales presentations or other calls with customers, and shall also include, at a minimum, the following: (1) listening to the oral representations made by persons engaged in sales or other customer service functions; (2) establishing a procedure for receiving and responding to customer complaints; and (3) ascertaining the number and nature of customer complaints regarding transactions in which each employee or independent contractor is involved;
2. Failing promptly to investigate fully any customer complaint received by any business to which this Section applies; and
3. Failing to take corrective action with respect to any salesperson whom Defendant determines is not complying with this Order, which may include training, disciplining, and/or terminating such salesperson.

G. **IT IS FURTHER ORDERED** that in connection with the offering for sale or sale of any good or service, Defendants are hereby permanently restrained and enjoined from misrepresenting, or assisting others from misrepresenting, expressly or by implication, any other fact material to a customer's decision to buy or accept the good or service from Defendants.

PROVIDED, however, that nothing in this Section shall be construed to nullify the prohibitions set forth in **Section II**, above.

IV. PROHIBITIONS AGAINST DISTRIBUTION OF CUSTOMER LISTS

IT IS FURTHER ORDERED that Defendants are permanently restrained and enjoined from selling, renting, leasing, transferring or otherwise disclosing the name, address, telephone number, credit card number, bank account number, e-mail address, or other identifying information of any person who paid any money to the Receivership Defendants at any time, in connection with the offering for sale or sale of any good or service; **PROVIDED, however,** that any Defendant may disclose such identifying information to Defendant's counsel as may be needed to defend a civil or criminal action, a law enforcement agency or as required by any law, regulation or court order, and shall disclose such identifying information to the Plaintiffs pursuant to this Order.

**V.
PROHIBITION ON TRANSFERRING BUSINESS INFORMATION**

IT IS FURTHER ORDERED that Defendants are hereby permanently restrained and enjoined from transferring or in any other way providing to any person (other than a federal, state, or local law enforcement agency, Defendant's counsel as may be needed to defend a civil or criminal action, or pursuant to a court order), directly or indirectly, any trade secrets or knowledge, whether recorded or otherwise, or any books, records, tapes, disks, accounting data, manuals, electronically stored data, banking records, invoices, telephone records, ledgers, payroll records, or other documents of any kind, including information stored in computer-maintained form, in the possession, custody, or control of a Defendant that are in any way related to a Receivership Defendant.

**VI.
SUSPENDED JUDGMENT**

IT IS FURTHER ORDERED that judgment is hereby entered against Defendants, jointly and severally, in the amount of forty million dollars (\$40,000,000); **PROVIDED, however**, that this monetary judgment shall be suspended as to the individual Defendants until further order of the Court, **and PROVIDED further** that this monetary judgment and its suspension shall be subject to the conditions set forth in **Sections VII through IX** of this Order.

VII. MONETARY RELIEF

A. **IT IS FURTHER ORDERED** that Defendants, jointly and severally, shall pay to the Plaintiffs as equitable monetary relief, costs, and attorneys fees, including but not limited to consumer redress and disgorgement and expenses of administering any redress fund, the funds and assets as set forth herein. Decisions by the parties as to the funds and assets the Defendants are to pay were based on financial disclosure statements provided by the Defendants (see **Section IX**, below), and the terms of this **Section VII** are subject to **Section IX**, below. Payment by the Defendants shall be made as follows: (a) by following the procedures set forth in Subpart B below concerning the sale of the properties identified in that Subpart; (b) by transferring to the Receivership estate the assets set forth on **Appendix B** no later than ten (10) business days after the entry of this Order (resulting in the individual Defendants retaining the assets set forth on **Appendix C**); and (c) by the Receiver liquidating all assets in the Receivership estate and transferring the resulting funds (after all costs of liquidation and administration of the Receivership estate, including all Receiver's fees and expenses allowed by the Court) to the Plaintiffs. All transfers from the Receivership estate shall be completed within five (5) business days after all assets have been liquidated and all costs of the Receivership estate have been set by the Court. All transfers of funds from the

Receivership estate required by this Section shall be by certified check or cashier's check delivered to the Director, East Central Region, Federal Trade Commission, 1111 Superior Avenue, Suite 200, Cleveland, Ohio, 44114, or to a bank account identified by counsel for Plaintiffs.

B. Notwithstanding the requirements of Subpart A above:

1. Defendant David Vincent Jensen shall have ninety (90) days from the date this Order is entered to sell the property at 1524 Taylor Point Drive. Upon the sale of the property within this time, which sale shall be approved by the Plaintiffs and Defendant David Vincent Jensen, the first nine thousand five hundred eighty-nine dollars and thirty-three cents (\$9,589.33) of proceeds, after payment of all encumbrances and sales costs, shall be paid to the Receivership estate. Of the remaining proceeds, up to forty-three thousand dollars (\$43,000) shall be paid to Adele Jensen, free and clear of any asset freeze in this case, subject to the provisos below. All excess funds over forty-three thousand dollars (\$43,000) shall be paid to the Receivership estate;
2. If the property at 1524 Taylor Point Drive does not sell within ninety (90) days from the date this Order is entered, Defendant David Vincent Jensen shall, within ninety-five (95) days from the date this Order is entered, transfer the property to the Receivership estate. Upon sale of the property by the Receiver, the first nine thousand five hundred eighty-nine dollars and thirty-three cents (\$9,589.33) of proceeds, after payment of all encumbrances and sales costs, shall be paid to the Receivership estate. Of the remaining proceeds, up to forty-three thousand dollars (\$43,000) shall be paid to Adele Jensen, free and clear of any asset freeze in this case, subject to the provisos below. All excess funds over forty-three thousand dollars (\$43,000) shall be paid to the Receivership estate;
3. The Receiver shall arrange the sale of the 1615 Graybark Drive property, which shall be transferred to the Receivership estate pursuant to Subpart A(b), above. If the sale of the 1524 Taylor Point Drive property yields less than forty-three thousand dollars (\$43,000) for Adele Jensen, proceeds from the sale of the 1615 Graybark Drive property, after payment of all encumbrances and sales costs, shall be paid to Adele Jensen, free and clear of any asset freeze in this case, sufficient to give her no more than forty-three thousand dollars (\$43,000), subject to the provisos below. All excess funds shall be paid to the Receivership estate;
4. Nothing shall prohibit Defendant David Vincent Jensen from transferring the Taylor Point Drive property to the Receivership estate at any time during the ninety-five (95) day period described above;

5. Defendant David Vincent Jensen, at all times between the date this Order is entered through the date the Taylor Point Drive and Graybark Drive properties are sold or transferred to the Receiver shall pay all mortgage, tax, and insurance payments due on each property; shall not encumber either property, whether by mortgage, lien, or other device; and shall take reasonable steps to maintain each property;
6. Defendant David Vincent Jensen, at all times between the date this Order is entered through the date the Taylor Point Drive property is sold or transferred to the receiver, whichever occurs first, shall place the property on the market for sale. Defendant David Vincent Jensen shall make reasonable and good faith efforts to sell the property at or above their fair market value. Defendant David Vincent Jensen shall disclose promptly to Plaintiffs' counsel his relationship, if any, to any proposed real estate agent or firm and any proposed commissions or fees to be paid to any such agent or firm. Defendant David Vincent Jensen shall provide promptly to Plaintiffs' counsel any appraisal or market analysis prepared by or for any such agent or firm or for Defendant David Vincent Jensen with respect to the pricing of the property;

Defendant David Vincent Jensen shall provide promptly to Plaintiffs' counsel copies of all offers made to purchase the property. Defendant David Vincent Jensen shall not accept any offer or make a counter-offer without the prior approval of Plaintiffs. Defendant David Vincent Jensen shall disclose promptly to Plaintiffs' counsel his relationship, if any, to any proposed buyer of the property;

7. Defendant Robert J. Demellweek shall be entitled to remain at the 3812 Milgrove Court property for ten (10) business days after the entry of this Order, even if he transfers the property to the Receivership estate before the ten (10) business days expire. Defendant Robert J. Demellweek shall provide to the Receiver all necessary keys and alarm codes for the property at the time the property is transferred. During the time Defendant Robert J. Demellweek or his family lives in the property, whether before or after the property is transferred to the Receivership estate, they shall not encumber the property, whether by mortgage, lien, or other device and shall take reasonable steps to maintain the property;

PROVIDED, that for purposes of this Subpart the terms "sell," "sold," and "sale" shall mean that a real estate closing has occurred in which legal title has changed from a seller to a buyer; **PROVIDED FURTHER**, that in no event shall the sum of the amounts paid to Adele Jensen from the sale of the properties at 1615 Graybark Drive and 1524 Taylor Point Drive exceed forty-three thousand dollars

(\$43,000); all such excess funds shall be paid to the Receivership estate; and **PROVIDED FURTHER**, that each Defendant's obligation to transfer any parcel of real estate under this Subpart shall be suspended until such time as Plaintiffs or the Receiver provide that Defendant with an appropriate deed transferring title to that parcel, complete except for execution.

C. Defendants acknowledge and agree that all money paid pursuant to this Order is irrevocably paid for purposes of settlement between the Plaintiffs and Defendants of the claims in this action.

D. Defendants acknowledge and agree that they will execute any and all documents necessary to transfer their frozen assets to the Receivership estate within five (5) business days of a Plaintiff's request to do so. Individual Defendants represent and warrant that they will be able to obtain the necessary signatures from any third parties needed to transfer any assets to the Receivership estate, including but not limited to signatures from third parties needed to transfer real estate to the Receivership estate.

E. Defendants' obligations to pay attorneys fees and costs as provided in **Section XIX** below shall be satisfied from the funds transferred pursuant to this Section.

VIII.
ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANT

IT IS FURTHER ORDERED that, within five (5) business days after receipt of this Order as entered by the Court, each individual Defendant shall submit to Plaintiffs a truthful sworn statement, in the form shown in **Appendix D**, that shall acknowledge receipt of this Stipulated Final Order.

IX.
RIGHT TO REOPEN WITH SUM CERTAIN

IT IS FURTHER ORDERED that,

A. Plaintiffs' agreement to, and the Court's approval of, this Final Order is expressly premised upon the truthfulness, accuracy, and completeness of the corporate financial statements previously provided and on the individual financial statements received by Plaintiffs on July 9, 2002. Each Defendants' financial statement contains material information upon which Plaintiffs relied in negotiating and agreeing to this Final Order. If Plaintiffs should have evidence that the above-referenced financial statements and information failed to disclose any material asset, materially misrepresented the value of any asset, or made any other material misrepresentation or omission, any Plaintiff may move that the Court reopen this Final Order for the sole purpose of allowing Plaintiffs to modify the monetary liability of that Defendant. If the Court finds that Defendants The Tungsten Group, Inc., The Tungsten Group II, Inc., Robert J. Demellweek, or David Vincent Jensen, individually or in combination with other Defendants, failed to disclose any material asset, the value of which is in excess of one thousand dollars (\$1,000), materially misrepresented the value of any asset, or made any other material misrepresentation or omission in the above-referenced financial statements and information, the Court shall enter a judgment against that Defendant in favor of Plaintiffs for the value of the asset in question, **PROVIDED** that should the Court find that a Defendant intentionally failed to disclose any material asset, or intentionally made any other material misrepresentation or omission in the above-referenced financial statements and information, the Court shall reinstate the judgment against that Defendant or those Defendants, in favor of Plaintiffs, in the amount of forty million dollars (\$40,000,000), which shall become immediately due and payable, less any amounts previously paid. In determining whether the act by the Defendant was an intentional act, the Court shall deem the act to be a

material, intentional act if the value of the asset is in excess of twenty-five thousand dollars (\$25,000). Should this judgment be modified as to the monetary liability of any Defendant, this Final Order, in all other respects, shall remain in full force.

B. Defendants authorize Plaintiffs and the Receiver to verify all information provided on Defendants' corporate and individual financial statements with all appropriate third parties, including, but not limited to, financial institutions and credit reporting bureaus; and

C. Proceedings instituted under this Section are in addition to, and not in lieu of, any and all other proceedings and remedies as may be provided by law, including any other proceedings Plaintiffs may initiate to enforce this Final Order. Solely for the purposes of reopening under this Section, Defendants waive any right to contest any of the allegations set forth in the complaint filed in this matter.

X.
LIFT OF ASSET FREEZE

IT IS FURTHER ORDERED that the freeze of each Defendant's assets, imposed in the Stipulated Preliminary Injunction entered in this proceeding, shall be lifted upon that Defendant's compliance with the asset transfer provisions of **Section VII** of this Order. A financial institution shall be entitled to rely upon a letter from any Plaintiff stating that a Defendant has complied with the provisions of **Section VII** of this Order, which letter shall be provided promptly by a Plaintiff upon a Defendant's compliance. The Stipulated Preliminary Injunction shall be lifted as to each individual Defendant at such time that he complies with the provisions of **Section VII** of this Order.

XI.
RECEIVERSHIP

IT IS FURTHER ORDERED that the Receivership imposed in the Stipulated Preliminary Injunction entered in this proceeding shall be continued until such time as the Receiver has taken the necessary steps to wind down the businesses of the Receivership Defendants. Steps taken by the Receiver to wind down the business shall include canceling the Receivership Defendants' contracts, liquidating the Receivership Defendants' assets, collecting on amounts owed to the Receivership Defendants, and taking such other steps as may be necessary to terminate the Receivership Defendants efficiently. Except as to any matter arising under **Section IX**, once Defendants' obligations under this Order are satisfied, the Receiver shall not collect any debts owed by Robert J. Demellweek or David Vincent Jensen to the Receivership Defendants or assert any claims against Robert J. Demellweek or David Vincent Jensen on behalf of the Receivership Defendants. The individual Defendants renounce any and all claims to any funds transferred to the Receivership estate, and all such funds shall be treated as Receivership funds subject to the provisions of this Section. The Receiver is directed to provide a report to the Court which details the steps taken to dissolve the Receivership estate. The report shall include an inventory of the Receivership estate and an accounting of the Receivership estate's finances. Upon completion of the requirements of this Section, the Receiver shall move that this Court order termination of this Receivership. At such time, the Receiver shall make a final request for payment of compensation for the performance of duties pursuant to this Section, as well as the Temporary Restraining Order and the Preliminary Injunction entered in this proceeding and the cost of actual out-of-pocket expenses incurred. Once the Receiver has been compensated in an amount approved by the Court, the Receiver shall transfer all remaining funds of the

Corporate Defendants to Plaintiffs for consumer redress or disgorgement as provided for in **Section XII** of this Order.

XII.
USE OF CONSUMER REDRESS AND DISGORGEMENT FUNDS

IT IS FURTHER ORDERED that:

A. The Plaintiffs shall deposit all funds received from the individual Defendants and the Receiver pursuant to this Order in an interest-bearing account administered by the Plaintiffs or their agent.

B. All funds paid pursuant to this Section shall be used for equitable relief, including but not limited to consumer redress and any attendant expenses for the administration of any redress fund. In the event that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, Plaintiffs may apply any remaining funds to such other equitable relief (including consumer education remedies) as they determine to be reasonably related to the Defendants' practices alleged in the complaint. Any funds not used for such equitable relief shall be deposited as disgorgement to the United States Treasury, the Commonwealth of Virginia, and the States of North Carolina and Wisconsin in a manner agreed among the Plaintiffs. Any such funds paid to the Commonwealth of Virginia shall be deposited into the Commonwealth's Regulatory and Consumer Advocacy Revolving Trust Fund and shall be used for consumer protection, education or enforcement by the Virginia Attorney General in his sole discretion. Any such funds paid to the State of North Carolina shall be used for consumer protection, education or enforcement by the North Carolina Attorney General in his sole discretion. Any such funds paid to the State of Wisconsin shall be used for consumer protection, education or enforcement by the

Wisconsin Attorney General in his sole discretion. Defendants shall have no right to challenge the Plaintiffs' choice of remedies under this Section.

PROVIDED, however, that nothing in this Section shall affect Defendants' obligations to pay attorneys fees and costs as provided in **Section XIX**, below.

XIII. RECORD KEEPING PROVISIONS

IT IS FURTHER ORDERED that each individual Defendant, in connection with any and every business entity of which he is a majority owner, or which he otherwise manages or controls, and where the business is engaged in the sale or marketing of any consumer good or service, is hereby restrained and enjoined from failing to create and retain, for a period of five (5) years from the date of entry of this Order unless otherwise specified, the following records:

A. Accounting records that, in reasonable detail, accurately and fairly reflect the cost of goods or services sold, revenues generated, and the disbursement of such revenues;

B. Records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by such business, including as an independent contractor; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;

C. Records containing the names, addresses, phone numbers, dollar amounts paid, quantity of items or services purchased, and description of items or services purchased, for all customers to whom such business has sold, invoiced or shipped any goods or services, or from whom such business accepted money or other items of value, to the extent such information is obtained in the ordinary course of business;

D. Records that reflect, for every customer complaint or refund request, whether received directly or indirectly or through any third party:

1. the customer's name, address, telephone number and the dollar amount paid by the customer;
2. the written complaint or refund request, if any, and the date of the complaint or refund request;
3. the basis of the complaint, including the name of any salesperson complained against, and the nature and result of any investigation conducted concerning any complaint;
4. each response and the date of the response;
5. any final resolution and the date of the resolution; and
6. in the event of a denial of a refund request, the reason for the denial; and

E. Copies of all sales scripts, training materials, advertisements, or other marketing materials utilized; **PROVIDED, however**, that copies of all sales scripts, training materials, advertisements, or other marketing materials utilized shall be retained for three (3) years after the last date of dissemination of any such materials.

XIV. COMPLIANCE REPORTING BY DEFENDANTS

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

A. For a period of five (5) years from the date of entry of this Order, each individual Defendant shall notify Plaintiffs of the following:

1. Any change in that Defendant's residence, mailing address, and telephone number, within ten (10) days of the date of such change;
2. Any changes in that Defendant's employment status (including self-employment) within ten (10) days of such change. Such notice shall include the name and address of each business that he is affiliated with or employed by, a statement of the nature of the business, and a statement of his duties and responsibilities in connection with the business or employment; and
3. Any proposed change in the structure of any business entity owned or controlled by that Defendant, such as creation, incorporation, dissolution, assignment, sale, merger, creation, dissolution of subsidiaries, proposed filing of a bankruptcy petition, change in the corporate name or address, or any other change that may affect compliance obligations arising out of this Order, within ten (10) days of the effective date of any proposed change; **PROVIDED, however,** that, with respect to any proposed change in the corporation about which that Defendant learned less than thirty (30) days prior to the date such action is to take place, that Defendant shall notify Plaintiffs as soon as practical.

B. One hundred eighty (180) days after the date of entry of this Order, Defendants shall provide a written report to the Plaintiffs, sworn to under penalty of perjury, setting forth in detail the manner and form in which they have complied and are complying with this Order. The report shall include but not be limited to:

1. For each individual Defendant, his then current residence address and telephone number;
2. For each individual Defendant, his then current employment, business address and telephone number, a description of the business activities of each such employer, and his title and responsibilities for each employer;
3. A copy of each acknowledgment of receipt of this Order obtained by Defendants pursuant to **Section VIII**;
4. A statement describing the manner in which Defendants have complied and are complying with the
 - a. terms of the injunctive requirements of **Sections II, III, IV, V, and XIII**; and

b. terms of the monetary-relief requirements of **Section VII**.

C. Upon written request by a representative of the Plaintiffs, Defendants shall submit additional written reports (under oath, if requested) and produce documents on thirty (30) days' notice with respect to any conduct subject to this Order;

D. For the purposes of this Order, Defendants shall, unless otherwise directed by the Plaintiffs' authorized representatives in writing, mail all written notifications to Plaintiffs to:

Regional Director for the East Central Region
Federal Trade Commission
1111 Superior Avenue, Suite 200
Cleveland, Ohio 44114

Re: FTC, et al. v. The Tungsten Group, Inc., et al.

Antitrust and Consumer Litigation Section Chief
Office of the Attorney General of Virginia
900 East Main Street
Richmond, Virginia 23219

Re: FTC, et al. v. The Tungsten Group, Inc., et al.

State of North Carolina
Division Chief
Consumer Protection/
Antitrust Division
Office of the Attorney General
P.O. Box 629
Raleigh, North Carolina 26702-0629

Re: FTC, et al. v. The Tungsten Group, Inc., et al.

State of Wisconsin
Chief of the Consumer Protection Section
Wisconsin Department of Justice
P.O. Box 7857
Madison, Wisconsin 53707

Re: FTC, et al. v. The Tungsten Group, Inc., et al.

E. For the purposes of this Section, “employment” includes the performance of services as an employee, consultant, or independent contractor, and “employers” include any individual or entity for whom any Defendant performs services as an employee, consultant, or independent contractor;

F. For the purposes of compliance reporting of this Section, Plaintiffs are authorized to communicate directly with any of the individual Defendants.

XV.
ACCESS TO BUSINESS PREMISES

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Stipulated Final Order, for the purpose of further determining compliance with this Order, each individual Defendant shall permit representatives of the Plaintiffs, within five (5) business days of receipt of written notice from any of the Plaintiffs:

A. Access during normal business hours to any office, or facility storing documents, of any business where such Defendant is the majority owner of the business or directly or indirectly manages or controls the business and where the business is engaged in the sale or marketing of any consumer good or service. In providing such access, he shall permit representatives of the Plaintiffs to inspect and copy all documents relevant to any matter contained in this Order, and shall permit Plaintiffs’ representatives to remove documents relevant to any matter contained in this Order for a period not to exceed three (3) business days, subject to any appropriate protective order, so that the documents may be inspected, inventoried, and copied; and

B. To interview the officers, directors, and employees, including all personnel involved in responding to customer complaints or inquiries, and all sales personnel, whether designated as employees,

consultants, independent contractors or otherwise, of any business to which Subpart A of this Section applies, concerning matters relating to compliance with the terms of this Order. The person interviewed may have counsel present.

PROVIDED, however, that, upon application of any of the Plaintiffs and for good cause shown, the Court may enter an *ex parte* order granting immediate access to all premises at which individual Defendants conduct business or store documents, for the purposes of inspecting and copying all documents relevant to any matter contained in this Order.

XVI.
PLAINTIFFS' AUTHORITY TO MONITOR COMPLIANCE

IT IS FURTHER ORDERED that the Plaintiffs are authorized to monitor Defendants' compliance with this Order by all lawful means, including, but not limited to, the following:

A. Plaintiffs are authorized, without further leave of this Court, to obtain discovery from any person in the manner provided by Chapter V of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 26–37, including the use of compulsory process pursuant to Fed. R. Civ. P. 45, for the purpose of investigating compliance with any provision of this Order;

B. Plaintiffs are authorized, without the necessity of identification or prior notice, to use representatives posing as consumers to each individual Defendant and each of his employees, or any other entity managed or controlled in whole or in part by him, for the purposes of monitoring compliance with this Order, and may tape-record any oral communications that occur in the course of such contacts;

C. Nothing in this Order shall limit the Federal Trade Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to investigate

compliance with this Order or Section 5 of the FTC Act, 15 U.S.C. § 45; nor shall anything in this Order limit the lawful use of compulsory process by the Commonwealth of Virginia, the State of North Carolina, or the State of Wisconsin pursuant to their applicable state laws.

**XVII.
ORDER DISTRIBUTION**

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Stipulated Final Order, individual Defendants shall immediately provide a copy of this Order to, and obtain a signed and dated acknowledgment of receipt of the same from, all officers, directors, managing agents, customer service personnel, and all sales personnel, whether designated as employees, consultants, independent contractors or otherwise, in any company or other business entity directly or indirectly owned, operated or controlled by the individual Defendant and where the business is engaged in the sale or marketing of any consumer good or service, and maintain for a period of three (3) years after creation, and upon reasonable notice, make available to representatives of Plaintiffs, the original signed and dated acknowledgments of the receipt of copies of this Order, as required by this Section.

**XVIII.
INDEPENDENCE OF OBLIGATIONS**

IT IS FURTHER ORDERED that the expiration of any requirements imposed by this Stipulated Final Order shall not affect any other obligation arising under this Order.

XIX.
COSTS AND ATTORNEYS FEES

IT IS FURTHER ORDERED that Defendants shall pay the costs and attorneys fees of Plaintiffs in the amount of one hundred thousand dollars (\$100,000). This obligation shall be paid out of the amount identified in **Section VII**, on Monetary Relief. Any such funds paid to the Commonwealth of Virginia shall be deposited into the Commonwealth's Regulatory and Consumer Advocacy Revolving Trust Fund and shall be used for consumer protection, education or enforcement by the Virginia Attorney General in his sole discretion. Any such funds paid to the State of North Carolina shall be used for consumer protection, education or enforcement by the North Carolina Attorney General in his sole discretion. Any such funds paid to the State of Wisconsin shall be used for consumer protection, education or enforcement by the Wisconsin Attorney General in his sole discretion.

XX.
RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all purposes.

SO ORDERED, this _____ day of _____, 2002

RAYMOND A. JACKSON
United States District Judge

Stipulated and agreed to this _____ day of _____, 2002

ROBERT J. DEMELLWEEK

DAVID VINCENT JENSEN

ROBERT J. DEMELLWEEK
President, The Tungsten Group, Inc.

DAVID VINCENT JENSEN
President, The Tungsten Group II, Inc.

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STATE OF WISCONSIN *EX REL.* JAMES E.
DOYLE, ATTORNEY GENERAL OF
WISCONSIN

DONNA J. HALL, ESQUIRE
Receiver

JAMES D. JEFFRIES
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Wisconsin Department of Justice
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HARRIS B. WINSBERG
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Telephone: (404) 885-3348
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APPENDIX A

TELEMARKETING SALES RULE

APPENDIX B

ASSETS TO BE TRANSFERRED TO THE RECEIVERSHIP ESTATE BY ROBERT J. DEMELLWEEK AND DAVID VINCENT JENSEN

- I. From David Vincent Jensen:
 - A. Bank accounts:
 1. All funds in Wachovia Bank account 05306525085
 2. All funds in Wachovia Bank account 05306544390
 3. All funds in Wachovia Bank account 05307943854
 - B. Other assets
 1. Nine thousand five hundred eighty-nine dollars and thirty-three cents (\$9,589.33) to be paid from the proceeds of the sale of the property at 1524 Taylor Point Drive.
 2. Any proceeds left from the sales of the properties at 1524 Taylor Point Drive and at 1615 Graybark Drive after payment of all encumbrances, sales costs, the nine thousand five hundred eighty-nine dollars and thirty-three cents (\$9,589.33) referenced in I.B.1 above, and up to forty-three thousand dollars (\$43,000) paid to Adele Jensen pursuant to Subpart I.C of **Appendix C**, below.
 3. All rights to the deposit held by All County Property Management regarding Jensen's rental house in Florida.
 4. Real property in Springhill Florida – Lot 17, Block 435, Unit B, also known as 1313 Gatewood.
 5. All right, claim, title, and interest in any assets of The Tungsten Group, The Tungsten Group II, Jensen Holdings, or the Receivership Estate in this matter.
- II. From Robert Demellweek:
 - A. Real Estate:
 1. Property at 3812 Mill Grove Court, Chesapeake, Virginia
 2. Property in Polk City, Florida
 - B. Bank Accounts:
 1. All funds in First Union Bank account 4311416444, less the amount provided for in Appendix C, item II.C.6
 2. All funds in First Union Bank account 090510270071352
 3. All funds in First Union Bank account 1050002485494
 - C. All right, claim, title, and interest in any assets of The Tungsten Group, The Tungsten Group II, Demellweek Holdings, or the Receivership Estate in this matter.

APPENDIX C

ASSETS TO BE KEPT BY ROBERT J. DEMELLWEEK AND DAVID VINCENT JENSEN

III. David Vincent Jensen:

A. Buick Rendevous automobile

B. 1973 Ford Maverick.

C. Proceeds, not to exceed \$43,000, from the sale of properties at 1524 Taylor Point Drive and 1615 Graybark Drive, after payments of sales costs and fees and of nine thousand five hundred eighty-nine dollars and thirty-three cents (\$9,589.33) to the Receivership, to be paid to Adele Jensen.

D. Bank Accounts

1. Certificate of Deposit with son Joseph Jensen, number 2066602935 at Wachovia Bank
2. Certificate of Deposit with daughter Darleen Jensen, number 2066602934, at Wachovia Bank
3. Certificate of Deposit with stepson Vincent Dicristo, number 2066602933 at Wachovia Bank
4. Savings account with stepson Vincent Dicristo, number 5304602153 at Wachovia Bank

E. Twenty-eight savings bonds in the names of Vincent Dicristo, Darleen Jensen, and Joseph Jensen with various maturity dates and total face value of approximately five thousand six hundred fifty dollars (\$5,650).

F. Personal property at 1524 Taylor Point Drive, Chesapeake, VA, as identified in Defendant David Vincent Jensen's financial disclosure form, received by Plaintiffs on July 9, 2002.

IV. Robert J. Demellweek:

A. Chevrolet Van automobile

B. House at 2817 Crossings Drive, Chesapeake, Virginia

C. Cash in the amount of seventy thousand dollars (\$70,000), to be retained as follows:

1. All funds in the Custodial Account for Dylan Demellweek, First Union Bank account 29483982

2. All funds in the Custodial Account for Cassandra Demellweek, First Union Bank account 4311964792
3. All funds in the Custodial Account for Andrew Demellweek, First Union Bank account 4312228466
4. All funds in the Custodial Account for Robert P. Demellweek, First Union Bank account 4312228453
5. All funds in the Custodial Account for Jennifer L. Demellweek, First Union Bank account 4312228440
6. Sufficient funds from First Union Bank account 4311416444 to bring the total cash amount to seventy thousand dollars (\$70,000)

D. Personal property at 3812 Mill Grove Court, Chesapeake, VA, as identified in Defendant Robert J. Demellweek's financial disclosure form, received by Plaintiffs on July 9, 2002.

APPENDIX D

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

FEDERAL TRADE COMMISSION, *et al.*

Plaintiffs,

v.

THE TUNGSTEN GROUP, INC., *et al.*

Defendants.

Case No. 2:01 CV 773

AFFIDAVIT OF DEFENDANT

I, _____, being duly sworn, hereby states and affirms as follows:

1. My name is _____. My current residence address is _____
_____. I am a citizen of the United States and am over the age of eighteen. I have personal knowledge of the facts set forth in this Affidavit.

2. I am a Defendant in *FTC, et al. v. The Tungsten Group, Inc., et al.* (United States District Court for the Eastern District of Virginia).

3. On _____, 2002, I received a copy of the Stipulated Final Order and Permanent Injunction, which was signed by the Honorable Judge Raymond Jackson and entered by the Court on _____, 2002. A true and correct copy of the Order I received is appended to this Affidavit.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed: _____, 2002

NAME

State of _____, City of _____

Subscribed and sworn to before me
this ____ day of _____, 2002.

Notary Public

My Commission Expires: _____

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