

1 WILLIAM E. KOVACIC
General Counsel

2 LAUREEN KAPIN
3 WALTER GROSS
4 JOSHUA S. MILLARD
Attorneys for Plaintiff
Federal Trade Commission
5 600 Pennsylvania Ave., N.W., Room NJ2122
Washington, D.C. 20580
6 (202) 326-3237 Office
(202) 326-2558 Fax
7

8 DANIEL G. BOGDEN
United States Attorney
9 BLAINE T. WELSH
Assistant United States Attorney
10 333 Las Vegas Blvd. South, Suite 5000
Las Vegas, NV 89101
11 (702) 388-6336 Office
(702) 388-5087 Fax
12 Nevada State Bar No. 4790

13
14 **UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

15 **FEDERAL TRADE COMMISSION,**)
16 **Plaintiff,**)

17 **v.**)

CV-S-02-0648-KJD-LRL

18 **UNITED FITNESS OF AMERICA, LLC,**)
19 **GEORGE SYLVA,**)
20 **EBRANDS COMMERCE GROUP, LLC,**)
21 **JOHN WILLIAM KIRBY, JR.**)
TRISTAR PRODUCTS, INC., and)
KISHORE MIRCHANDANI, a/k/a)
“KEITH” MIRCHANDANI,)

22 **Defendants.**)
23

24 **STIPULATED FINAL JUDGMENT AND ORDER FOR PERMANENT INJUNCTION,**
25 **MONETARY REDRESS, AND OTHER EQUITABLE RELIEF AS TO**
DEFENDANTS TRISTAR PRODUCTS, INC. AND KISHORE MIRCHANDANI

1 Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), in conjunction with
2 the filing of this Stipulated Final Judgment, has filed an Amended Complaint for Permanent
3 Injunction, and Other Equitable Relief (the “Amended Complaint”) under Section 13(b) of the
4 Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), against Defendants United
5 Fitness of America, LLC; George Sylva; eBrands commerce group, llc; John William Kirby, Jr.;
6 Tristar Products, Inc. (“Tristar”); and Kishore Mirchandani, also known as “Keith” Mirchandani
7 (“Mirchandani”).

8 The Commission and Defendants Tristar and Mirchandani (together the “Tristar
9 Defendants”) have stipulated to the entry of this Stipulated Final Judgment and Order for
10 Permanent Injunction, Monetary Redress, and Other Equitable Relief (“Final Order”) in
11 settlement of the Commission’s Amended Complaint against the Tristar Defendants. The Tristar
12 Defendants, as well as Defendants United Fitness of America, LLC, and George Sylva, have
13 withdrawn their motions to dismiss and to transfer. The Tristar Defendants waive all rights to
14 seek judicial review or otherwise challenge or contest the validity of this Final Order. The
15 Tristar Defendants also waive any claim that they may have held under the Equal Access to
16 Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action to the date of this Final
17 Order. The Court, being advised in the premises, finds as follows:

18 FINDINGS

19 1. In its Amended Complaint, the Commission alleged that the Tristar Defendants
20 violated Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52. The Commission
21 sought permanent injunctive relief for alleged deceptive acts or practices by the Tristar
22 Defendants in connection with the marketing and sale of the Fast Abs electronic muscle
23 stimulation device.

24 2. The Commission has the authority under Section 13(b) of the FTC Act, 15
25

1 U.S.C. § 53(b), to seek the relief it has requested.

2 **3.** This Court has jurisdiction over the subject matter of this action and over all of
3 the parties. Venue in the District of Nevada is proper.

4 **4.** The Amended Complaint states a claim upon which relief may be granted against
5 the Tristar Defendants.

6 **5.** The activities of the Tristar Defendants as alleged in the Commission’s Amended
7 Complaint were or are in or affecting commerce, as defined in Section 4 of the FTC Act, 15
8 U.S.C. § 44.

9 **6.** The Commission and the Tristar Defendants stipulate and agree to this Final
10 Order, without trial or final adjudication of any issue of fact or law, to settle and resolve all
11 matters in dispute arising from the Amended Complaint to the date of entry of this Final Order.
12 By stipulating to this Final Order, the Tristar Defendants do not admit any of the allegations set
13 forth in the Amended Complaint, other than jurisdictional facts.

14 **7.** Each party to this Final Order shall bear its own costs and attorneys’ fees incurred
15 in connection with this action.

16 **8.** Entry of this Final Order is in the public interest.

17 **DEFINITIONS**

18 For the purposes of this Final Order, the following definitions shall apply:

19 **A.** “Clearly and prominently” means as follows:

20 **1.** In an advertisement communicated through an electronic medium (such as
21 television, video, radio, and interactive media such as the Internet, online
22 services and software), the disclosure must be presented simultaneously in
23 both the audio and visual portions of the advertisement. *Provided,*
24 *however,* that in any advertisement presented solely through visual or
25

1 audio means, the disclosure may be made through the same means in
2 which the advertisement is presented. *Provided further*, that in any
3 advertisement communicated through interactive media that is presented
4 predominantly through visual or audio means, the disclosure may be made
5 through the same means in which the advertisement is predominantly
6 presented. The audio disclosure must be delivered in a volume and
7 cadence sufficient for an ordinary consumer to hear and comprehend it.
8 The visual disclosure must be of a size and shade, with a degree of
9 contrast to the background against which it appears, and must appear on
10 the screen for a duration and in a location, sufficiently noticeable for an
11 ordinary consumer to read and comprehend it.

12 2. In a print advertisement, promotional material, or instructional manual, the
13 disclosure must be in a type size and location sufficiently noticeable for an
14 ordinary consumer to read and comprehend it, in print that contrasts with
15 the background against which it appears.

16 3. On a product label, the disclosure must be in a type size and location
17 sufficiently noticeable for an ordinary consumer to read and comprehend
18 it and in print that contrasts with the background against which it appears.
19 *Provided, however*, if a disclosure on a bottle label or package label is
20 made in a location other than the principal display panel, the bottle label
21 or package label must (i) include the statement, “**See important safety**
22 **warning(s) on [insert disclosure location]**,” in a type size and location
23 on the principal display panel sufficiently noticeable for an ordinary
24 consumer to read and comprehend it and in print that contrasts with the
25

1 background against which it appears; and (ii) place the disclosure within a
2 border that is a color or shade that contrasts with the background against
3 which it appears. *Provided further*, that in a multi-page insert, the
4 disclosure must appear on the cover page or first page.

5 **4.** The disclosure must be in understandable language and syntax. Nothing
6 contrary to, inconsistent with, or in mitigation of the disclosure can be
7 used in any advertisement or on any label.

8 **5.** In the case of advertisements disseminated by means of an interactive
9 electronic medium, such as software, the Internet, or online services, “in
10 close proximity” means on the same Web page, online service page, or
11 other electronic page, and proximate to the triggering representation, and
12 does not include disclosures accessed or displayed through hyperlinks,
13 pop-ups, interstitials or other means.

14 **B.** “Competent and reliable scientific evidence” means tests, analyses, research,
15 studies, or other evidence based on the expertise of professionals in the relevant
16 area, that has been conducted and evaluated in an objective manner by persons
17 qualified to do so, using procedures generally accepted in the profession to yield
18 accurate and reliable results.

19 **C.** “EMS device” means an electrically powered device that repeatedly contracts
20 muscles by passing electrical currents through electrodes contacting the affected
21 body area.

22 **D.** “Fast Abs” means the Fast Abs electronic muscle stimulation device challenged in
23 the Amended Complaint.

1 E. "Food," "Drug," "Cosmetic," and "Device" mean as defined by Section 15 of the
2 FTC Act, 15 U.S.C. § 55.

3 F. The term "including" in this Final Order shall mean "without limitation."

4 G. The terms "and" and "or" in this Final Order shall be construed conjunctively or
5 disjunctively as necessary, to make the applicable phrase or sentence inclusive
6 rather than exclusive.

7 **ORDER**

8 **MONETARY RELIEF**

9 **I.**

10 **IT IS HEREBY ORDERED** that judgment is entered, jointly and severally, against the
11 Tristar Defendants, in favor of the FTC in the sum of Two Million Six Hundred and Fifty
12 Thousand dollars (\$2,650,000), under the following terms and conditions:

13 A. Within 10 days of the entry of this Order, the Tristar Defendants shall pay the full
14 amount of the judgment to the Commission.

15 B. All payments under this Part shall be made by certified check or other guaranteed
16 funds payable to and delivered to the Federal Trade Commission, Division of
17 Finance, 600 Pennsylvania Ave, NW, Washington, DC 20580, Reference
18 Information FTC v. United Fitness of America, Matter No. X020056; or by wire
19 transfer to: Treasury ABA number: 021030004, ALC number 29000001, Federal
20 Reserve Bank of NY, Appropriation 29X6013, FTC Consumer Redress,
21 Reference information FTC v. United Fitness of America, Matter No. X020056;
22 and

23 C. All funds paid pursuant to this Part shall be deposited into a fund administered by
24 the FTC or its agent to be used for equitable relief, including, but not limited to,
25

1 consumer redress and to pay any attendant costs for the administration of any
2 redress fund. If direct redress to consumers is wholly or partially impracticable or
3 funds remain after redress is completed, the FTC may apply any remaining funds
4 for such other equitable relief (including consumer information remedies) as it
5 determines to be reasonably related to the Tristar Defendants' practices alleged in
6 the Amended Complaint. Any funds not used for equitable relief shall be
7 deposited to the Treasury as disgorgement. The Tristar Defendants shall have no
8 right to challenge the FTC's choice of remedies under this Part. No portion of the
9 payment pursuant to this Part shall be deemed a payment of any fine, penalty or
10 punitive assessment.

11 **RIGHT TO REOPEN**

12 **II.**

13 **IT IS FURTHER ORDERED** that Plaintiff's agreement to this Final Order is expressly
14 premised upon the Tristar Defendants' financial condition, as represented in the sworn financial
15 statements provided by the Tristar Defendants to the FTC and listed in *Appendix A*. The
16 financial statements listed in *Appendix A* include material information upon which the
17 Commission relied in negotiating and consenting to this Final Order. If, upon motion by the
18 Commission, a Court should find that either Tristar Defendant made a material misrepresentation
19 or omitted material information concerning its financial condition, then this Final Order shall be
20 reopened for the purpose of requiring payment from the Tristar Defendant(s) who made the
21 misrepresentation to the Commission monetary redress in the amount of Six Million Eight
22 Hundred and Thirty-Three Thousand dollars (\$6,833,000), which the Tristar Defendants agree is
23 the total net amount paid by consumers to purchase Fast Abs products in retail stores, less the
24 sum of any amounts paid to the FTC by the Tristar Defendants after the date of this Final Order.

1 *Provided*, however, that in all other respects this judgment shall remain in full force and effect,
2 unless otherwise ordered by the Court; and *provided further*, that proceedings instituted under
3 this Part are in addition to, and not in lieu of, any other civil or criminal remedies as may be
4 provided by law, including any other proceedings that the FTC may initiate to enforce this Final
5 Order.

6 **PROHIBITED REPRESENTATIONS**

7 **III.**

8 **IT IS FURTHER ORDERED** that the Tristar Defendants, their successors and assigns,
9 and their officers, agents, servants, and employees, and all persons or entities in active concert or
10 participation with them who receive actual notice of this Final Order by personal service or
11 otherwise, whether acting directly or through any corporation, subsidiary, division, or other
12 entity, in connection with the manufacturing, labeling, advertising, promotion, offering for sale,
13 sale, or distribution of Fast Abs, or any substantially similar device, are hereby permanently
14 enjoined from representing, in any manner, expressly or by implication, that:

- 15 **A.** Any such device causes or promotes loss of inches or fat;
- 16 **B.** Any such device causes or promotes well-defined abdominal muscles, including
17 through the use of terms such as “rock hard abs,” “washboard abs,” “chiseled
18 abs,” “cut abs,” “well-developed abs,” and/or any other terms with substantially
19 similar meaning;
- 20 **C.** Use of any such device for any period of time is equivalent to or superior to
21 abdominal exercises such as sit-ups, crunches, or any substantially similar
22 exercises;
- 23 **D.** Any such device is safe for use over the chest and/or pectoral area; or
- 24 **E.** Any such device makes a material contribution to any system, program, or plan
- 25

1 that produces the results referenced in Subparts A-C of this Part.

2 **IV.**

3 **IT IS FURTHER ORDERED** that the Tristar Defendants, their successors and assigns,
4 and their officers, agents, servants, and employees, and all persons or entities in active concert or
5 participation with them who receive actual notice of this Final Order by personal service or
6 otherwise, whether acting directly or through any corporation, subsidiary, division, or other
7 entity, in connection with the manufacturing, labeling, advertising, promotion, offering for sale,
8 sale, or distribution of any product not covered by Part III of this Final Order, are hereby
9 permanently enjoined from misrepresenting, in any manner, expressly or by implication, that:

- 10 **A.** Any such product causes or promotes loss of weight, inches or fat;
- 11 **B.** Any such product causes or promotes well-defined abdominal muscles, including
12 through the use of terms such as “rock hard abs,” “washboard abs,” “chiseled
13 abs,” “cut abs,” “well-developed abs,” and/or any other terms with substantially
14 similar meaning;
- 15 **C.** Use of any such product for any period of time is equivalent to or superior to
16 abdominal exercises such as sit-ups, crunches, or any substantially similar
17 exercises;
- 18 **D.** Any EMS device is safe for use over the chest and/or pectoral area; or
- 19 **E.** Any such product makes a material contribution to any system, program, or plan
20 that produces the results referenced in Subparts A-C of this Part.

21 **V.**

22 **IT IS FURTHER ORDERED** that the Tristar Defendants, their successors and assigns,
23 and their officers, agents, servants, and employees, and all persons or entities in active concert or
24 participation with them who receive actual notice of this Order by personal service or otherwise,
25

1 whether acting directly or through any corporation, subsidiary, division, or other entity, in
2 connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or
3 distribution of any dietary supplement, food, drug, cosmetic or device are hereby permanently
4 enjoined from making any representations about the absolute or comparative health benefits,
5 performance, efficacy, safety, or side effects of any such product unless, at the time the
6 representation is made, the Tristar Defendants possess and rely upon competent and reliable
7 scientific evidence that substantiates the representation.

8 **VI.**

9 **IT IS FURTHER ORDERED** that the Tristar Defendants, their successors and assigns,
10 and their officers, agents, servants, and employees, and all persons or entities in active concert or
11 participation with them who receive actual notice of this Final Order by personal service or
12 otherwise, whether acting directly or through any corporation, subsidiary, division, or other
13 entity, in connection with the manufacturing, labeling, advertising, promotion, offering for sale,
14 sale, or distribution of any product, service, or program, are hereby permanently enjoined from
15 misrepresenting, expressly or by implication, the existence, contents, validity, results,
16 conclusions, or interpretations of any test, study, or research.

17 **REQUIRED DISCLOSURES**

18 **VII.**

19 **IT IS FURTHER ORDERED** that the Tristar Defendants, their successors and assigns,
20 and their officers, agents, servants, and employees, and all persons or entities in active concert or
21 participation with them who receive actual notice of this Final Order by personal service or
22 otherwise, whether acting directly or through any corporation, subsidiary, division, or other
23 entity, in connection with the manufacturing, labeling, advertising, promotion, offering for sale,
24 sale, or distribution of any EMS device, must disclose, clearly and prominently:

1 A. (1) In any external packaging or labeling; and (2) in close proximity to any safety
2 representation about the EMS device in any advertisement (other than television
3 or radio advertisements), promotional material, or telephone, or electronic
4 communication; the following:

5 **WARNING:** This product uses electrical muscle stimulation. Do
6 not use this device if you have a cardiac pacemaker, implanted
7 defibrillator, or other implanted metallic or electronic device. This
8 device could cause lethal rhythm disturbances to the heart in
9 susceptible individuals. Apply stimulation only to normal, intact,
10 clean skin. Do not apply stimulation over open wounds or over
11 swollen, infected, or inflamed areas or skin eruptions, *e.g.*,
12 phlebitis, thrombophlebitis, varicose veins, etc. Do not apply
13 stimulation over, or in close proximity to, cancerous lesions. The
14 safety of electrical stimulation during pregnancy has not been
15 established.

16 unless, at the time the representation is made, the Tristar Defendants possess and
17 rely upon competent and reliable scientific evidence that such device is safe for
18 all users and produces no adverse side effects. This requirement is in addition to,
19 and not in lieu of, any disclosures that the Food and Drug Administration may
20 require for such devices. *Provided, however,* that, if the Tristar Defendants
21 possess competent and reliable scientific evidence that the EMS device is safe for
22 users with a particular condition, the Tristar Defendants may remove that
23 particular condition from the disclosure required by this Final Order. *Provided*
24 *further,* that if the Tristar Defendants believe other uses of the EMS device or
25 health conditions may pose health risks, those uses or conditions may be added to
26 the warning. *Provided further,* that if the Food and Drug Administration issues a
final rule requiring a warning on the labeling of the EMS device, the Tristar
Defendants must substitute that warning label for the disclosures required in this
Part.

1 **B.** In close proximity to any safety representation about the EMS device in any
2 television or radio advertisement, the following:

3 **WARNING:** This product uses electronic muscle stimulation and
4 is not safe for all users, particularly those with implanted metallic
5 or electronic devices. Review the health and safety warnings on
6 our website, [domain name of website], or call us toll-free at [toll-
7 free telephone number], before buying this product.

8 unless, at the time the representation is made, the Tristar Defendants possess and
9 rely upon competent and reliable scientific evidence that the EMS device is safe
10 for all users and produces no adverse side effects. *Provided that*, for a period of
11 time beginning with the date of the first broadcast of any such television or radio
12 advertisement for any EMS device that contains a safety representation about the
13 device and ending no sooner than thirty days after the last broadcast, the Tristar
14 Defendants must maintain both a toll-free telephone number consumers can call
15 to obtain the warning set forth in Subpart A, of this Part, and a website that
16 clearly and prominently sets forth the full text of such warning on the home page
17 or teaser page.

18 **FOOD AND DRUG ADMINISTRATION**

19 **VIII.**

20 **IT IS FURTHER ORDERED** that nothing in this Final Order shall prohibit the Tristar
21 Defendants from making any representation for:

22 **A.** Any drug that is specifically permitted in labeling for that drug under any
23 tentative final or final standard promulgated by the Food and Drug
24 Administration, or under any new drug application approved by the Food and
25 Drug Administration;

26 **B.** Any device that is specifically stated in an Indications for Use Statement for that

1 device under any premarket approval application or premarket notification
2 approved or cleared by the Food and Drug Administration; or

- 3 **C.** Any product that is specifically permitted in labeling for such product by
4 regulations promulgated by the Food and Drug Administration pursuant to the
5 Nutrition Labeling and Education Act of 1990.

6 **COMPLIANCE REPORTING BY DEFENDANTS**

7 **IX.**

8 **IT IS FURTHER ORDERED** that, in order that compliance with the provisions of this
9 Final Order may be monitored:

- 10 **A.** For a period of three (3) years from the date of entry of this Final Order,
- 11 **1.** Mirchandani shall notify the Commission of the following: (a) any
12 changes in his residence, mailing addresses, and telephone numbers,
13 within ten (10) days of the date of such change; (b) any changes in his
14 employment status (including self-employment) within ten (10) days of
15 the date of such change (such notices shall include the name and address
16 of each business that Mirchandani is affiliated with, employed by, or
17 performs services for; a statement of the nature of the business; and a
18 statement of Mirchandani's duties and responsibilities in connection with
19 the business); and (c) any changes in his name or use of any aliases or
20 fictitious names;
- 21 **2.** Tristar shall notify the Commission of any changes in corporate structure
22 that may affect compliance obligations arising under this Final Order,
23 including but not limited to a dissolution, assignment, sale, merger, or
24 other action that would result in the emergence of a successor corporation;

1 the creation or dissolution of a subsidiary, parent, or affiliate that engages
2 in any acts or practices subject to this Final Order; the filing of a
3 bankruptcy petition; or a change in the corporate name or address, at least
4 thirty (30) days prior to such change. *Provided that*, with respect to any
5 proposed change in the corporation about which Tristar learns less than
6 thirty (30) days prior to the date such action is to take place, Tristar shall
7 notify the Commission as soon as is practicable after obtaining such
8 knowledge.

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

- 14 **1.** Any changes required to be reported pursuant to Subpart A, of this Part;
- 15 **2.** A copy of each acknowledgment of receipt of this Final Order obtained by
16 the Tristar Defendants pursuant to Part XII, below;
- 17 **3.** For the purposes of this Final Order, the Tristar Defendants shall, unless
18 otherwise directed by the Commission's authorized representatives, mail
19 all written notifications to the Commission to:

20 Associate Director for Enforcement
21 Federal Trade Commission
22 600 Pennsylvania Ave., N.W., Room NJ-2122
23 Washington, D.C. 20580
24 Re: FTC v. United Fitness of America, LLC, et al.;
25 CV-S-02-0648-KJD-LRL (D. Nev.)

26 **C.** For purposes of the compliance reporting required by this Part, the Commission is
authorized to communicate directly with the Tristar Defendants.

1 **COMPLIANCE MONITORING**

2 **X.**

3 **IT IS FURTHER ORDERED** that, for the purpose of monitoring and investigating
4 compliance with any provision of this Final Order:

5 **A.** Within ten (10) days of receipt of written notice from a representative of the
6 Commission, the Tristar Defendants shall submit additional written reports, sworn
7 to under penalty of perjury; produce documents for inspection and copying;
8 appear for deposition; and/or provide entry during normal business hours to any
9 business location in such Defendant's possession or direct or indirect control to
10 inspect the business operation;

11 **B.** In addition, the Commission is authorized to monitor compliance with this Final
12 Order by all other lawful means, including but not limited to the following:

- 13 **1.** obtaining discovery from any person, without further leave of court, using
14 the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45;
15 **2.** posing as consumers and suppliers to the Tristar Defendants, their
16 employees, or any other entity managed or controlled in whole or in part
17 by either Defendant, without the necessity of identification or prior notice;

18 *Provided that* nothing in this Final Order shall limit the Commission's lawful use
19 of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C.
20 §§ 49, 57b-1, to obtain any documentary material, tangible things, testimony, or
21 information relevant to unfair or deceptive acts or practices in or affecting
22 commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

23 **C.** The Tristar Defendants shall permit representatives of the Commission to
24 interview any employer, consultant, independent contractor, representative, agent,
25

1 or employee who has agreed to such an interview, relating in any way to any
2 conduct subject to this Final Order. The person interviewed may have counsel
3 present.

4 **RECORD KEEPING PROVISIONS**

5 **XI.**

6 **IT IS FURTHER ORDERED** that, for a period of six (6) years from the date of entry of
7 this Final Order, the Tristar Defendants and any business where either or both of the Tristar
8 Defendant(s), individually or together, are the majority owner or otherwise manage or control
9 the business, are hereby restrained and enjoined from failing to create and retain the following
10 records in connection with the manufacturing, labeling, advertising, promotion, offering for sale,
11 sale, or distribution of Fast Abs, any other EMS device, or any dietary supplement, food, drug,
12 cosmetic or device for which representations regarding the absolute or comparative health
13 benefits, performance, efficacy, safety, or side effects of any such product are made:

- 14 **A.** Accounting records that reflect the cost of goods or services sold, revenues
15 generated, and the disbursement of such revenues;
- 16 **B.** Personnel records accurately reflecting: (a) the name, address, and telephone
17 number of each person employed in any capacity by such business, including as
18 an independent contractor; (b) that person's job title or position; (c) the date upon
19 which the person commenced work; and (d) the date and reason for the person's
20 termination, if applicable;
- 21 **C.** Customer files containing the names, addresses, phone numbers, dollar amounts
22 paid, quantity of items or services purchased, and description of items or services
23 purchased, to the extent such information is obtained in the ordinary course of
24 business;

1 **ACKNOWLEDGMENT OF RECEIPT OF FINAL ORDER BY DEFENDANTS**

2 **XIII.**

3 **IT IS FURTHER ORDERED** that each of the Tristar Defendants, within five (5)
4 business days of receipt of this Final Order as entered by the Court, must submit to the
5 Commission a truthful sworn statement acknowledging receipt of this Final Order.

6 **TAXPAYER IDENTIFICATION NUMBERS**

7 **XIV.**

8 **IT IS FURTHER ORDERED** that the Tristar Defendants must, in accordance with 31
9 U.S.C. § 7701, furnish to the FTC their respective taxpayer identifying numbers (social security
10 number or employer identification number), which shall be used for purposes of collecting and
11 reporting on any delinquent amount arising out of either Defendant's relationship with the
12 government.

13 **RETENTION OF JURISDICTION**

14 **XV.**

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

17 **SO STIPULATED:**

18 **Attorneys for Plaintiff Federal Trade Commission:**

19
20
21 _____
LAUREEN KAPIN
WALTER GROSS
JOSHUA S. MILLARD
22 Attorneys for Plaintiff
Federal Trade Commission
23 600 Pennsylvania Ave., N.W., Room NJ4302
Washington, D.C. 20580
24 (202) 326-3237 Office
(202) 326-2558 Fax
25

20
21 _____
DANIEL G. BOGDEN
UNITED STATES ATTORNEY
BLAINE T. WELSH
Assistant United States Attorney
333 Las Vegas Blvd. South, Suite 5000
Las Vegas, NV 89101
(702) 388-6336 Office
(702) 388-5087 Fax

1 **Defendants:**

2
3 _____
4 KISHORE MIRCHANDANI, also
5 known as "KEITH" MIRCHANDANI,
6 individually and as President/CEO of TRISTAR PRODUCTS, INC.
7 (home address:)
8 32 Emerson Rd.
9 Morris Plains, NJ 07950
10 (corporate address:)
11 4 Century Dr.
12 Parsippany, NJ 07054

8 **Attorneys for Defendants:**

9
10 _____
11 DENNIS L. KENNEDY
12 LIONEL SAWYER & COLLINS
13 300 South Fourth St., Suite 1700
14 Las Vegas, NV 89101

JEFFREY D. KNOWLES
EDWARD F. GLYNN, JR.
VENABLE, BAETJER, HOWARD
& CIVILETTI, LLP.
1201 New York Ave., N.W., Ste.1000
Washington, D.C. 20005
(202) 962-4800

14 **IT IS SO ORDERED**

17 _____
18 KENT J. DAWSON
19 UNITED STATES DISTRICT

20 DATED: _____

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

Appendix A

Sworn Financial Statements Provided by Defendants to the FTC

1. Corporate Financial Disclosure Form of Tristar Products, Inc., signed May 20, 2002; and
2. Individual Financial Disclosure Form of Kishore Mirchandani, signed May 23, 2002.