

adjudication of any issue of law or fact herein and without the defendants admitting liability for any of the violations alleged in the complaint. Defendants enter into this order freely and without coercion, and Hubbard acknowledges that he has carefully read and understands the provisions of this order, including the meaning and significance of Paragraph IV.D as applied to bankruptcy proceedings which he discussed with counsel for the FTC, and is prepared to abide by its terms.

NOW, THEREFORE, defendants and the FTC having requested the Court to enter this order, it is hereby ordered, adjudged, and decreed:

FINDINGS

1. This Court has jurisdiction of the subject matter of this case and over all parties hereto.
2. The complaint states a claim upon which relief may be granted against the defendants under Sections 5 and 13(b) of the FTC Act, 15 U.S.C. §§ 45 and 53(b).
3. Venue is proper as to all parties in the Western District of Texas pursuant to 15 U.S.C. § 53(b) and 28 U.S.C. § 1391(b) and (c).
4. The activities of defendants are in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
5. Entry of this order is in the public interest.
6. Defendants have waived all rights to seek judicial review or otherwise challenge or contest the validity of this order, and further waive and release any claim defendants may have against the FTC and its employees and agents, including any rights that may arise for attorney fees or other costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, *amended by* Pub. L. 104-121, 110 Stat. 847, 863-64 (1996).

PERMANENT INJUNCTION

\\B:\BCP\Castleguard\Settle\CG_stipPermInj.wpd 1/16/04

7. The parties shall each bear their own costs and attorney fees incurred in this action.

DEFINITIONS

1. "Defendant" means Treigh Dustin Hubbard and any company he owns as a principal or majority owner, including Castle Publishing.

2. "Work at home opportunity" means any program, plan, product, or service that represents that it enables a participant or purchaser to earn money while working at home.

3. "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 consumer 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.

4. "Material fact" means a fact likely to affect a person's purchasing or investing decision.

ORDER

I. BAN ON SALE OF WORK AT HOME OPPORTUNITIES

IT IS THEREFORE ORDERED that defendant is hereby permanently restrained and enjoined from engaging, participating, or assisting others in any manner or in any capacity whatsoever, whether directly or indirectly, in concert with others, or through any intermediary, third party, business entity, or device, in the marketing, advertising, promotion, offering for sale, or sale of work at home opportunities.

PERMANENT INJUNCTION

H:\BCP\Castleguard\Settle\CG_stpPermInj.wpd 1/16/04

II. PROHIBITIONS AGAINST MISREPRESENTATIONS

IT IS FURTHER ORDERED that defendant, his agents, servants, and employees, and those persons in active concert or participation with him who receive actual notice of this order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, affiliate, or other device, in connection with the advertising, offering for sale, or sale of goods or services in or affecting commerce, are hereby permanently restrained and enjoined from making, or assisting others in making, any express or implied representation or omission of material fact that is false or misleading, in any manner, to any consumer or entity, including, but not limited to:

- A. Misrepresenting that consumers are likely to earn a substantial amount of money.
- B. Misrepresenting the amount of earnings, income, sales volume, or profits that a consumer is likely to achieve.
- C. Misrepresenting the amount of earnings, income, sales volume, or profits that consumers have achieved in the past.
- D. Misrepresenting the length of time that it may or will take to recoup the purchase price or investment.
- E. Misrepresenting that defendant will reimburse consumers any expenses of purchasing or participating in defendant's offered goods or services.

III. PROHIBITION AGAINST PROVIDING OTHERS WITH THE MEANS AND INSTRUMENTALITIES TO VIOLATE SECTION 5 OF THE FTC ACT

IT IS FURTHER ORDERED that in connection with the offering for sale or sale of goods or services in or affecting commerce, defendant, his agents, servants, and employees, and those persons in active concert or participation with him who receive actual notice of this order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, affiliate, or other device, are hereby permanently restrained and enjoined from providing to others the means and instrumentalities with which to make, expressly or by implication, orally or in writing, any false or misleading statement or representation of material fact, including, but not limited to :

1. Promotional materials, advertising circulars, and brochures or letters that contain any false or misleading statement regarding any material fact.
2. Promotional materials, advertising circulars, and brochures or letters that contain any false and misleading representations prohibited by Paragraphs II.A-E above.

IV. MONETARY JUDGMENT

IT IS FURTHER ORDERED that:

- A. Judgment in the amount of \$5,469,000.00 is entered against defendant as restitution for consumer injury; provided, however, that this judgment shall be suspended until further order of the Court pursuant to Section V of this order (Right to Reopen), and provided further that this judgment shall be subject to the conditions set forth in Section V.
- B. If any funds are paid pursuant to this section and Section V (Right to Reopen), those funds shall be deposited into a fund administered by the FTC or its designated agent to be

used for equitable relief, including, but not limited to, restitution and any attendant expenses for the administration of any monetary fund. In the event that direct restitution for consumers is wholly or partially impracticable or funds remain after restitution is completed, the FTC may apply any remaining funds for any other equitable relief (including consumer information remedies) that it determines to be reasonably related to the defendant's practices alleged in the complaint. Any funds not used for this equitable relief shall be deposited into the U.S. Treasury as disgorgement. Defendant shall have no right to challenge the FTC's choice of remedies under this section.

C. The FTC and defendant acknowledge and agree that no portion of this judgment for equitable monetary relief shall be deemed a fine, penalty, punitive assessment, or forfeiture.

D. Defendant agrees that the facts as alleged in the complaint filed in this action shall be taken as true for the purpose of any nondischargeability action in a bankruptcy proceeding.

V. RIGHT TO REOPEN AS TO MONETARY JUDGMENT

IT IS FURTHER ORDERED that:

A. By agreeing to this order, defendant reaffirms and attests to the truthfulness, accuracy, and completeness of his Financial Statement of Individual Defendant dated 12/16/03 and submitted to the FTC, and the letter and the 2000-2002 federal tax returns he sent to the FTC on December 29, 2003 (designated collectively as the "Financial Statements"). Plaintiff's agreement to this order is expressly premised upon the truthfulness, accuracy, and completeness of defendant's financial condition, as represented in the Financial Statements referenced above, which contain material information upon which plaintiff relied in negotiating and agreeing to the terms of this order.

PERMANENT INJUNCTION

H:\BCP\Castleguard\Settle\CG_stipPermInj.wpd 1/16/04

B. If, upon motion by plaintiff, this Court finds that defendant failed to disclose any material asset, or materially misrepresented the value of any asset, or made any other material misrepresentation in or omission from the Financial Statements, the Court shall reinstate the suspended judgment against the defendant, in favor of the FTC, in the amount of \$5,469,000.00, which the defendant and the FTC stipulate is the amount of consumer injury caused by the defendant, as set forth in Paragraph IV.A of this order. Provided, however, that in all other respects this order shall remain in full force and effect unless otherwise ordered by the Court.

C. In accordance with 31 U.S.C. § 7701, defendant is hereby required, unless he has done so already, to furnish to the FTC his respective taxpayer identifying number (social security number or employer identification number) which shall be used for purposes of collecting and reporting on any delinquent amount arising out of defendant's relationship with the government.

D. Defendant is further required, unless he has done so already, to provide the FTC with clear, legible and full-size photocopies of all valid driver's licenses he possesses, which will be used for reporting and compliance purposes.

E. Proceedings instituted under this section are in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including any other proceedings the FTC may initiate to enforce this order.

VI. WITHHELD MAIL

IT IS FURTHER ORDERED that the FTC may retain, open, or dispose of any mail forwarded to it from commercial mail receiving agencies pursuant to Section IV of the Temporary Restraining Order or Section III of the Preliminary Injunction. In its discretion, the FTC may return any of the retained mail back to consumers, forward the mail to the defendant or

PERMANENT INJUNCTION

II:\BCP\Castleguard\Settle\CG_stupPermInj.wpd 1/16/04

destroy the mail as it deems appropriate. Defendant shall have no right to challenge the FTC's actions under this section.

VII. PROHIBITION ON DISCLOSING CUSTOMER INFORMATION

IT IS FURTHER ORDERED that defendant, his agents, servants, and employees, and those persons in active concert or participation with him who receive actual notice of this order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, affiliate, or other device, are hereby permanently restrained and enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, social security number, or other identifying information of any person who purchased or paid to participate in a work at home opportunity at any time prior to the date this order is entered. Provided, however, that defendant may disclose identifying information to a law enforcement agency or as required by any law, regulation, or court order.

VIII. MONITORING COMPLIANCE OF SALES PERSONNEL

IT IS FURTHER ORDERED that defendant, in connection with any business where (1) the defendant is the majority owner of the business or directly or indirectly manages or controls the business, and (2) the business involves the promotion, offering for sale, or sale of business ventures, or assisting others engaged in the promotion, offering for sale, or sale of business ventures, is hereby permanently restrained and enjoined from:

A. 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 Paragraph II of this order. These steps shall include adequate monitoring of sales presentations or other calls with consumers, 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 consumer complaints; and (3) ascertaining the number and nature of consumer complaints regarding transactions in which each employee or independent contractor is involved.

B. Failing promptly to investigate fully any consumer complaint received by any business to which this section applies.

C. Failing to take adequate corrective action with respect to any employee or independent contractor who defendant determines is not complying with this order. This corrective action may include training, disciplining, and/or terminating such employee or independent contractor.

IX. ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANT

IT IS FURTHER ORDERED that, within five business days after receipt by defendant of this order as entered by the Court, defendant shall submit to plaintiff a truthful sworn or affirmed statement acknowledging receipt of this order.

X. RECORD KEEPING

IT IS FURTHER ORDERED that, for a period of five years from the date of entry of this order, defendant, in connection with any business where (1) he is the majority owner of the business or directly or indirectly controls the business, and (2) the business is engaged in conduct that is the subject of this order, is hereby permanently restrained and enjoined from failing to create and retain for a period of three years from the date of their creation the following records:

A. Customer files containing the names, addresses, phone numbers, dollar amounts paid, quantity of items or services purchased, and description of items or services purchased, to

the extent this information is obtained in the ordinary course of business

B. Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by the 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. Complete records of any consumer complaints, disputes, and refund requests, whether coming from the consumer or any intermediary, such as a government agency or Better Business Bureau, and any responses made to those complaints or disputes.

XI. COMPLIANCE REPORTING BY DEFENDANT

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

A. For a period of five years from the date of entry of this order, defendant shall notify the plaintiff of the following:

1. Any changes in defendant's business or residence addresses, mailing addresses, and telephone numbers, within 30 days of the date of each change.
2. Any changes in defendant's name or use of any aliases or fictitious names.
3. Any changes in defendant's employment status (including self-employment) within 30 days of each change. This notice shall include the name and address of each business that defendant is affiliated with or employed by, a statement of the nature of the business, and a statement of the defendant's duties and responsibilities in connection with the business or employment.
4. Any proposed change in the structure of any business entity owned or controlled

by defendant, such as creation, incorporation, dissolution, assignment, sale, merger, creation or dissolution of subsidiaries, or any other change that may affect compliance obligations arising out of this order, 30 days prior to the effective date of any proposed change.

B. One hundred eighty (180) days after the date of entry of this order, defendant shall provide a written report to the plaintiff, sworn to or affirmed under penalty of perjury, setting forth in detail the manner and form in which the defendant has complied and is complying with this order. This report shall include but not be limited to:

1. Defendant's current residence address and telephone number.
2. Defendant's current employment, business addresses and telephone numbers, a description of the business activities of his employer, and the defendant's title and responsibilities for the employer.
3. A copy of each acknowledgment of receipt of this order obtained by defendant pursuant to Section XIII.
4. A statement describing the manner in which defendant has complied and is complying with the injunctive and other provisions of this order.

C. For the purposes of this order, defendant shall, unless otherwise directed by the FTC's authorized representatives, mail all written notifications to the FTC to:

Regional Director
Federal Trade Commission
915 2nd Ave., Ste 2896
Seattle, WA 98174

D. For the purposes of this section, "employment" includes the performance of services as an employee, consultant, or independent contractor; and "employers" includes any individual or entity for whom the defendant performs services as an employee, consultant, or independent contractor.

XII. PLAINTIFF'S AUTHORITY TO MONITOR COMPLIANCE

IT IS FURTHER ORDERED that, for the purpose of monitoring and investigating compliance with any provision of this order:

A. Within 10 days of receipt of written notice from a representative of the FTC, defendant shall submit additional written reports, sworn to or affirmed under penalty of perjury; produce documents for inspection and copying; appear for deposition; and/or provide entry during normal business hours to any business location in defendant's possession or direct or indirect control to inspect the business operation.

B. In addition, the FTC is authorized to monitor compliance with this order by all other lawful means, including but not limited to:

1. Obtaining discovery from any person, without further leave of court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45.
2. Posing as consumers to defendant, defendant's employees, or any other entity managed or controlled in whole or in part by defendant, without the necessity of identification or prior notice;.

Provided that nothing in this order shall limit the FTC's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to obtain any

documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

C. Defendant shall permit representatives of the FTC to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to any conduct subject to this order. The person interviewed may have counsel present.

XIII. DISTRIBUTION OF ORDER BY DEFENDANT

IT IS FURTHER ORDERED that, for a period of five years from the date of entry of this order, for any business in which defendant is an owner, general manager, partner, or principal, defendant shall deliver a copy of this order to each principal, officer, director, manager, and employee who has responsibilities with respect to the subject matter of this order. Defendant shall secure from each of these persons a signed and dated statement acknowledging receipt of the order within 30 days after the date of service of the order or the commencement of the employment relationship.

XIV. RETENTION OF JURISDICTION

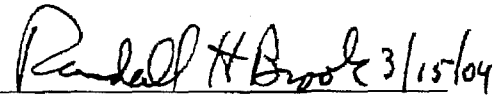
IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this order.

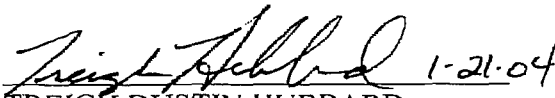
SO ORDERED, this 18th day of March, 2004.



Hon. Sam Sparks
United States District Judge

PRESENTED BY AND STIPULATED TO:


RANDALL H. BROOK (WSBA #4860)
ELEANOR DURHAM (Md. Bar)
Attorneys for Plaintiff
Federal Trade Commission
915 2nd Avenue, Suite 2896
Seattle, WA 98174
206-220-4487 (Brook)
206-220-4476 (Durham)


TREIGH DUSTIN HUBBARD
Individually *pro se* and as owner of Castle
Publishing and related companies

Counsel for Defendant (if any)