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15 **UNITED STATES DISTRICT COURT**
16 **CENTRAL DISTRICT OF CALIFORNIA**

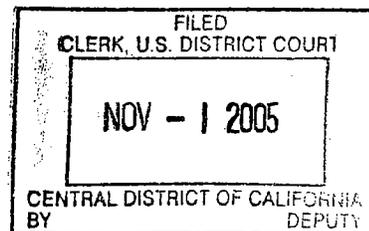
17 FEDERAL TRADE COMMISSION,

18 Plaintiff,

19 v.

20 Enternet Media, Inc., a California
corporation; Conspy & Co., Inc., a
21 California corporation; Lida Rohbani,
individually and as an officer of
22 Enternet Media, Inc. and Conspy &
Co., Inc.; Baback (Babak) Hakimi,
23 individually, doing business as
Network One, and as an officer of
24 Enternet Media, Inc. and Conspy &
Co., Inc.; Nicholas C. Albert,
25 individually and doing business as
Iwebtunes and www.iwebtunes.com,

26 Defendants.



CIVIL NO.

**(PROPOSED) EX
PARTE TEMPORARY
RESTRAINING ORDER
AND ORDER TO SHOW
CAUSE**

1 Plaintiff, the Federal Trade Commission (“FTC” or the “Commission”),
2 pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15
3 U.S.C. § 53(b), has filed a Complaint for Injunctive and Other Equitable Relief,
4 and has ^{Applied} ~~moved~~ *ex parte* for a temporary restraining order and for an order to show
5 cause why a preliminary injunction should not be granted pursuant to Rule 65(b)
6 of the Federal Rules of Civil Procedure.

7 FINDINGS

8 The Court has considered the pleadings, declarations, exhibits, and memoranda
9 filed in support of the Commission’s motion and finds that:

- 10 1. This Court has jurisdiction over the subject matter of this case, and there is
11 good cause to believe that it will have jurisdiction over all parties hereto;
- 12 2. There is good cause to believe that defendants Enternet Media, Inc., a
13 California corporation; Conspy & Co., Inc., a California corporation; Lida
14 Rohbani, individually and as an officer of Enternet Media, Inc. and Conspy &
15 Co., Inc.; Baback (Babak) Hakimi, individually, doing business as Networkd
16 One, and as an officer of Enternet Media, Inc. and Conspy & Co., Inc.
17 (“Enternet Media defendants”); and Nicholas C. Albert, individually and doing
18 business as Iwebtunes and www.iwebtunes.com (“defendant Albert”), have
19 engaged and are likely to engage in acts or practices that violate Section 5(a) of
20 the FTC Act, 15 U.S.C. § 45(a), and that the plaintiff is therefore likely to
21 prevail on the merits of this action;
- 22 3. The evidence set forth in the Commission’s Memorandum of Law in Support of
23 ^{Application} ~~Motion~~ *Ex Parte* for Temporary Restraining Order and Order to Show
24 Cause, and the accompanying declarations and exhibits, demonstrates that the
25 Commission is likely to prove that defendants have engaged in deceptive and
26 unfair acts or practices in violation of Section 5 of the FTC Act 5. With the aid

1 of "affiliates," the Enternet Media defendants dupe consumers into
2 downloading and installing exploitive code by disguising it as innocuous, free
3 software or "freeware," such as Internet browser upgrades, music files, cell
4 phone ring tones, and song lyrics. Although the exact parameters of the
5 Enternet Media defendants' exploitive code have changed over time, their code
6 has, for extended periods: (1) tracked consumers' Internet activity; (2) changed
7 consumers' preferred homepage settings; (3) inserted a new toolbar onto
8 consumers' Internet browsers; (4) inserted a large and obtrusive "frame" or
9 "window" onto consumers' computer screens that displays advertisements; and
10 (5) displayed voluminous "pop up" advertisements, even when consumers'
11 Internet browsers are closed. Consumers cannot reasonably avoid installing the
12 Enternet Media defendants' exploitive code, and, once installed, otherwise
13 uninstall or remove these disruptive features;

14 4. There is good cause to believe that the defendants will continue with such
15 illegal actions if not immediately restrained from doing so by Order of this
16 Court. There also is good cause to believe that immediate and irreparable
17 damage to the Court's ability to grant effective final relief will result from the
18 sale, transfer, or other disposition or concealment by the defendants of their
19 assets or business records, unless the defendants are immediately restrained and
20 enjoined by Order of this Court. The evidence set forth in the Plaintiff's *Ex*
21 *Parte* ~~Motion~~ ^{Application} for a Temporary Restraining Order and Order to Show Cause,
22 and in the accompanying declarations and exhibits, shows that the defendants
23 have engaged in a concerted course of illegal activity in connection with the
24 deceptive bundling and distribution of exploitive software code in violation
25 of Section 5 of the FTC Act, 15 U.S.C. § 45. The Enternet Media defendants
26 use affiliates, like defendant Albert, as a conduit for delivering their

1 exploitive software code. Defendant Albert deceptively delivers that
2 software code and shields his identity from consumers by anonymously
3 registering his domain. Similarly, the Enternet Media defendants use false
4 domain registration information and anonymizing services to prevent
5 detection. Thus, there is good cause to believe that the defendants will
6 attempt to conceal the scope of their illegal actions to avoid returning their
7 ill-gotten gains;

8 5. The Commission has not provided notice to the defendants due to the
9 likelihood that advance notice of this action will cause the defendants to
10 abscond with or destroy discoverable evidence and conceal or dissipate
11 assets. The Commission's request for this emergency *ex parte* relief is not
12 the result of any lack of diligence on the Commission's part, but instead is
13 based upon the nature of the defendants' unlawful conduct. Thus, there is
14 good cause for relieving the Commission of the duty to provide the
15 defendants with prior notice of the Commission's application;

16 6. There is good cause for the Court to order an asset freeze against the Enternet
17 Media defendants. The Enternet Media defendants have likely retained ill-
18 gotten gains derived from their deceptive and unfair practices, including
19 misrepresenting to consumers that their software code is an innocuous Internet
20 browser upgrade or security patch, and providing software code that
21 substantially interferes with consumers' use of their computers. An asset freeze
22 as to the Enternet Media defendants is reasonably necessary in order to preserve
23 the possibility of complete and meaningful relief in the form of disgorgement
24 and/or consumer redress at the conclusion of this litigation;

25 7. Weighing the equities and considering the plaintiff's likelihood of ultimate
26 success, a temporary restraining order requiring an immediate freeze as to
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1 certain defendants' assets and accounting of assets, preserving business records,
2 and providing other equitable relief is in the public interest; and
3 8. Fed. R. Civ. P. 65(c) does not require security of the United States or an
4 officer or agency thereof for the issuance of a restraining order.

5 DEFINITIONS

6 For the purpose of this order, the following definitions shall apply:

- 7 1. **“Corporate defendants”** means Enternet Media, Inc., Conspy & Co., Inc.,
8 and their successors, assigns, affiliates, or subsidiaries.
- 9 2. **“Defendants”** means, individually, collectively or in any combination: (a)
10 each Corporate defendant; (b) each Individual defendant; (c) any person
11 insofar as he or she is acting in the capacity of an officer, agent,
12 representative, servant, employee or attorney of the Corporate defendants or
13 any Individual defendant; and (d) all persons or entities in active concert or
14 participation with any of the foregoing who receive notice of this Order by
15 personal service or otherwise. (Fed. R. Civ. P. 65(d)).
- 16 3. **“Enternet Media defendants”** means Enternet Media, Inc., Conspy & Co.,
17 Inc., Lida Rohbani, aka Lida Rohbani Hakimi, Lida Hakimi, Lida Rohhani,
18 and Linda Rohbani, individually and as an officer of Enternet Media, Inc.
19 and Conspy & Co., Inc., Baback (Babak) Hakimi, aka Bobby Rohbani and
20 Bobby Hakimi, individually, doing business as Networld One, and as an
21 officer of Enternet Media, Inc. and Conspy & Co., Inc., and their successors,
22 assigns, affiliates, or subsidiaries.
- 23 4. **“Defendant Albert”** means Nicholas C. Albert, individually and doing
24 business as Iwebtunes and www.iwebtunes.com.
- 25 5. **“Individual defendants”** means Lida Rohbani, Baback (Babak) Hakimi,
26 individually and through any d/b/a; and Nicholas C. Albert.

1 6. **“Assets”** means any legal or equitable interest in, right to, or claim to, any
2 real, personal, or intellectual property of any Corporate defendant or
3 Individual defendant, or held for the benefit of any Corporate defendant or
4 Individual defendant, wherever located, including, but not limited to,
5 chattel, goods, instruments, equipment, fixtures, general intangibles, effects,
6 leaseholds, contracts, mail or other deliveries, shares of stock, inventory,
7 checks, notes, accounts, credits, receivables (as those terms are defined in
8 the Uniform Commercial Code), cash, and trusts, including but not limited
9 to any other trust held for the benefit of any Corporate defendant or
10 Individual defendant, any Individual defendant’s minor children, or any
11 Individual defendant’s spouse.

12 7. **“Document”** is synonymous in meaning and equal in scope to the usage of
13 the term in the Federal Rules of Civil Procedure 34(a), and includes writing,
14 drawings, graphs, charts, Internet sites, Web pages, Web sites, electronic
15 correspondence, including e-mail and instant messages, photographs, audio
16 and video recordings, contracts, accounting data, advertisements (including,
17 but not limited to, advertisements placed on the World Wide Web), FTP
18 Logs, Server Access Logs, USENET Newsgroup postings, World Wide
19 Web pages, books, written or printed records, handwritten notes, telephone
20 logs, telephone scripts, receipt books, ledgers, personal and business
21 canceled checks and check registers, bank statements, appointment books,
22 computer records, and other data compilations from which information can
23 be obtained and translated. A draft or non-identical copy is a separate
24 document within the meaning of the term.

25 8. A **“Host” or “Hosting Company”** is the party that provides the
26 infrastructure for a computer service. With respect to web pages and web
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1 sites, a Host or Hosting Company maintains “Internet servers” – the
2 computers on which web sites, web pages, Internet files, or resources reside.
3 The Host or Hosting Company also maintains the communication lines
4 required to link the server to the Internet. Often, the content on the servers
5 (*i.e.*, content of the web pages) is controlled by someone other than the Host
6 or Hosting Company.

7 9. “**Affiliate marketer**” or “**sub-affiliate marketer**” means any person who
8 provides or has provided defendants with assistance in marketing,
9 advertising, distributing, downloading, or installing software code or other
10 goods or services on behalf of the Enternet Media defendants.

11 10. “**Affiliate program**” is an arrangement under which the Enternet Media
12 defendants pay or offer to pay another (“the affiliate”) to market, advertise,
13 distribute, download or install software code or other goods or services on
14 behalf of the Enternet Media defendants, with the affiliate being paid based
15 on performance measures, including but not limited to the number of
16 software code installations or downloads.

17 11. “**Plaintiff**” means the Federal Trade Commission.
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1 F. displays advertisements of any kind on consumers' computers.

2 **III.**

3 **IT IS FURTHER ORDERED** that, in connection with marketing and
4 distributing software code, the Enternet Media defendants and those persons in
5 active concert or participation with them who receive actual notice of this Order by
6 personal service or otherwise, are temporarily restrained and enjoined from
7 providing others with the means and instrumentalities with which to make,
8 expressly or by implication, orally or in writing, any false or misleading statement
9 or representation of material fact regarding the nature of the Enternet Media
10 defendants' software code, including but not limited to falsely representing that the
11 software code is an innocuous free software code or file, such as an Internet
12 browser upgrade or other computer security software, music file, song lyric, and
13 cell phone ring tone.

14 **IV.**

15 **IT IS FURTHER ORDERED** that, in connection with marketing and
16 distributing software code, the Enternet Media defendants and those persons in
17 active concert or participation with them who receive actual notice of this Order by
18 personal service or otherwise, are temporarily restrained and enjoined from
19 providing others with the means and instrumentalities with which to publish,
20 disseminate, distribute, install, or download software code that interferes with
21 consumers' computer use, including but not limited to software code that:

- 22 A. tracks consumers' Internet activity;
- 23 B. changes consumers' preferred Internet homepage settings;
- 24 C. inserts a new toolbar onto consumers' Internet browsers;
- 25 D. inserts a large side "frame" or "window" onto consumers'
26 browser windows that in turn displays advertisements;
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1 E. displays numerous "pop up" advertisements on consumers'
2 computer screens, even when consumers' Internet browsers are
3 closed; or

4 F. displays advertisements of any kind on consumers' computers.

5 **V.**

6 **IT IS FURTHER ORDERED** that, in connection with marketing and
7 distributing software code, defendant Albert, and those persons in active concert or
8 participation with him who receive actual notice of this Order by personal service
9 or otherwise, are temporarily restrained and enjoined from failing to disclose that
10 the software code or other products or services that defendant Albert offers is
11 bundled with or otherwise contains additional software code that will display
12 advertisements, including but not limited to software code that displays
13 advertisements from the Enternet Media defendants that represent, expressly or by
14 implication, that their software code functions as an Internet browser upgrade,
15 other computer security software, or other innocuous software.

16 **ASSET FREEZE**

17 **VI.**

18 **IT IS FURTHER ORDERED** that the Enternet Media defendants, any
19 person insofar as he or she is acting in the capacity of an officer, agent,
20 representative, servant, employee or attorney of the Enternet Media defendants, and
21 all persons or entities in active concert or participation with any of the foregoing
22 who receive notice of this Order by personal service or otherwise are hereby
23 temporarily restrained and enjoined from:

24 A. Transferring, liquidating, converting, encumbering, pledging, loaning,
25 selling, concealing, dissipating, disbursing, assigning, spending, withdrawing,
26 granting a lien or security interest or other interest in, or otherwise disposing of any
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1 funds, real or personal property, accounts, contracts, consumer lists, shares of
2 stock, or other assets, or any interest therein, wherever located, that are: (1) owned
3 or controlled by the Enترنت Media defendants, in whole or in part, for the benefit
4 of the Enترنت Media defendants; (2) in the actual or constructive possession of the
5 Enترنت Media defendants; or (3) owned, controlled by, or in the actual or
6 constructive possession of any corporation, partnership, or other entity directly or
7 indirectly owned, managed, or controlled by any Enترنت Media defendant,
8 including, but not limited to, any assets held by or for, or subject to access by, any
9 of the Enترنت Media defendants, at any bank or savings and loan institution, or
10 with any broker-dealer, escrow agent, title company, commodity trading company,
11 precious metals dealer, or other financial institution or depository of any kind;

12 B. Opening or causing to be opened any safe deposit boxes titled in the
13 name of any Enترنت Media defendant, or subject to access by any of them;

14 C. Incurring charges or cash advances on any credit card issued in the
15 name, singly or jointly, of any Enترنت Media defendant;

16 D. Obtaining a personal or secured loan titled in the name of any
17 Enترنت Media defendant, or subject to access by any of them; and

18 E. Incurring liens or other encumbrances on real property, personal
19 property or other assets in the name, singly or jointly, of any Enترنت Media
20 defendant.

21 FINANCIAL REPORTS AND ACCOUNTING

22 VII.

23 **IT IS FURTHER ORDERED** that each Individual defendant and each
24 Corporate defendant, within five (5) days of service of this Order, shall:

25 A. Provide the Commission with completed financial statements, verified
26 under oath and accurate as of the date of entry of this Order, on the forms attached
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1 to this Order as Attachment A for each Individual defendant and Attachment B for
2 each Corporate defendant;

3 B. Provide the Commission with a full accounting, verified under oath
4 and accurate as of the date of entry of this Order, of all funds, documents, and
5 assets outside of the United States that are: (1) in the name of each Individual
6 defendant and each Corporate defendant; or (2) held by any person or entity for the
7 benefit of each Individual defendant and each Corporate defendant; or (3) under the
8 direct or indirect control, whether jointly or singly, of each Individual defendant
9 and each Corporate defendant;

10 C. Each Corporate defendant and each Individual defendant shall prepare
11 and provide to counsel for the Commission a detailed and accurate statement,
12 verified under oath and accurate as of the date of entry of this Order, that sets forth:

13 1. all gross revenues collected and obtained through the Individual
14 defendants' Internet marketing and distribution activities and the Corporate
15 defendants' business activities, including, but not limited to, revenues collected
16 through participation in affiliate programs, and the source of all such revenues;

17 2. all payments, transfers, or assignments of assets made by the
18 Corporate defendants and Individual defendants in the amount of \$500 or more
19 since January 1, 2004. Such statement shall include: (a) the amount transferred or
20 assigned; (b) the name, address, and telephone number of each transferor or
21 assignor; (c) the name, address, and telephone number of each transferee or
22 assignee; (d) the date of the assignment or transfer; and (e) the type and amount of
23 consideration for any payment;

24 3. all net profits obtained from the Individual defendants' Internet
25 marketing and distribution activities and the Corporate defendants' business
26 activities;

1 request for a preliminary injunction, any financial or brokerage institution, business
2 entity, or person served with a copy of this Order that holds, controls, or maintains
3 custody of any account or asset of any Corporate defendant or Individual
4 defendant, or has held, controlled or maintained custody of any such account or
5 asset at any time since the date of entry of this Order, shall:

6 A. Hold and retain within its control and prohibit the withdrawal, removal,
7 assignment, transfer, pledge, encumbrance, disbursement, dissipation, conversion,
8 sale, or other disposal of any such asset except by further order of the Court;

9 B. Deny any Defendant access to any safe deposit box that is:

10 1. titled in the name of any Corporate defendants' or Individual
11 defendants' name, individually or jointly; or

12 2. otherwise subject to access by any Corporate defendant or
13 Individual defendant;

14 C. Provide the Commission's counsel, within five (5) business days of
15 receiving a copy of this Order, a sworn statement setting forth:

16 1. the identification number of each such account or asset titled in
17 the name, individually or jointly, of each Corporate defendant
18 and each Individual defendant, or held on behalf of, or for the
19 benefit of each Corporate defendant and each Individual
20 defendant;

21 2. the balance of each such account, or a description of the nature
22 and value of each such asset as of the close of business on the
23 day on which this Order is served, and, if the account or other
24 asset has been closed or removed, the date closed or removed,
25 the total funds removed in order to close the account, and the
26 name of the person or entity to whom such account or other
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1 asset was remitted; and

- 2 3. the identification of any safe deposit box that is titled in the
3 name, individually or jointly, of each Corporate defendant and
4 each Individual defendant, or is otherwise subject to access by a
5 Corporate defendant or an Individual defendant; and

6 D. Upon request by the Commission, promptly provide the Commission
7 with copies of all records or other documentation pertaining to each such account
8 or asset, including but not limited to originals or copies of account applications,
9 account statements, signature cards, checks, drafts, deposit tickets, transfers to and
10 from the accounts, all other debit and credit instruments or slips, currency
11 transaction reports, 1099 forms, and safe deposit box logs. Any such financial
12 institution, account custodian, or other aforementioned entity may arrange for the
13 Commission to obtain copies of any such records which the Commission seeks.

14 **ACCESS TO BUSINESS PREMISES AND BUSINESS RECORDS**

15 **(As to Enternet Media Defendants)**

16 **IX.**

17 **IT IS FURTHER ORDERED** that the Enternet Media defendants shall
18 allow plaintiff's representatives immediate access to all business premises and
19 storage facilities owned, controlled, or used by the Enternet Media defendants,
20 including, but not limited to, 7334 Topanga Canyon Blvd., Suite 106, Canoga Park,
21 California 91303. Plaintiff is authorized to employ the assistance of law
22 enforcement officers as plaintiff deems necessary to effect service and peacefully
23 implement this Order. Law enforcement officers may exclude the Enternet Media
24 defendants and their employees from the business premises during the immediate
25 access. The purpose of the immediate access shall be to effect service and to
26 inspect, copy, and return documents and computer data, including but not limited

1 to, correspondence, emails, financial data, and other documents concerning the
2 Enternet Media defendants' business practices and assets.

3 A. Plaintiff and its representatives, agents, and assistants, shall have the
4 right to remove documents from the above-listed premises in order that they may
5 be inspected, inventoried, and copied;

6 B. Plaintiff shall return any removed documents to the Enternet Media
7 defendants within three (3) business days, or such time as is agreed upon by
8 plaintiff and the Enternet Media defendants;

9 C. The Enternet Media defendants and all employees or agents of
10 defendants, or the Enternet Media business premises' building and/or property
11 manager, shall provide plaintiff with any necessary means of access to documents
12 and records, including, without limitation, the locations of the Enternet Media
13 defendants' business premises, keys and combinations to locks, computer access
14 codes or other passwords, and storage area access information;

15 *Furthermore*, if at the time of service of this Order all documents and/or
16 computers relating to the Enternet Media defendants' business practices or assets,
17 including but not limited to: computers, computer access codes and/or other
18 computer passwords, computerized files, storage media (including, but not limited
19 to, floppy disks, hard drives, cd-roms, zip disks, punch cards, magnetic tape,
20 backup tapes and computer chips) on which information has been saved, any and
21 all equipment needed to read any such material, contracts, accounting data,
22 correspondence (including, but not limited to, electronic correspondence),
23 advertisements (including, but not limited to, advertisements placed on the World
24 Wide Web), USENET Newsgroup postings, World Wide Web pages, books,
25 written or printed records, handwritten notes, receipt books, ledgers, personal and
26 business canceled checks and check registers, bank statements, appointment books,

1 copies of federal, state or local business or personal income or property tax returns,
2 1099 forms, are located (1) in a place other than a business location of the Enternet
3 Media defendants, including, but not limited to, the personal residences of Lida
4 Rohbani and/or Baback Hakimi, or (2) otherwise not accessed pursuant to
5 Paragraph IX, then the Enternet Media defendants shall, within twenty-four (24)
6 hours of service of this Order, produce such documents and computers for copying
7 and inspection to the Federal Trade Commission's Western Regional Office at
8 10877 Wilshire Blvd., Suite 700, Los Angeles, California 90024. In order to
9 prevent the destruction of computer data, upon service of this order upon the
10 Enternet Media defendants, any such computers shall be powered down (turned
11 off) in the normal course for the operating systems used on such computers and
12 shall not be used until produced for copying and inspection.

13 **ACCESS TO BUSINESS RECORDS**

14 **(As to Defendant Albert)**

15 **X.**

16 **IT IS FURTHER ORDERED** that defendant Albert shall allow Plaintiff's
17 representatives, agents, and assistants access to all of defendant Albert's business
18 records to inspect and copy documents so that the Commission may prepare for the
19 preliminary injunction hearing and identify and locate assets. Accordingly,
20 defendant Albert shall, within twenty-four (24) hours of service of this Order,
21 produce to Plaintiff and Plaintiff's representatives, agents and assistants for
22 inspection, inventory and/or copying, at the United States Attorney's Office,
23 Southern District of Ohio (Dayton) located at 200 West 2nd Street, Suite 602,
24 Dayton, Ohio 45402, all materials related or referring, directly or indirectly, to
25 defendant Albert's business practices or assets including, but not limited to,
26 computers, computer access codes and/or other computer passwords, computerized

1 files, storage media (including, but not limited to, floppy disks, hard drives, cd-
2 roms, zip disks, punch cards, magnetic tape, backup tapes and computer chips) on
3 which information has been saved, any and all equipment needed to read any such
4 material, contracts, accounting data, correspondence (including, but not limited to,
5 electronic correspondence), advertisements (including, but not limited to,
6 advertisements placed on the World Wide Web), USENET Newsgroup postings,
7 World Wide Web pages, books, written or printed records, handwritten notes,
8 receipt books, ledgers, personal and business canceled checks and check registers,
9 bank statements, appointment books, copies of federal, state or local business or
10 personal income or property tax returns, 1099 forms, and other documents or
11 records of any kind that relate to defendant Albert's business practices.

12 The Commission shall return produced materials pursuant to this Paragraph
13 within three (3) business days of completing said inventory and copying.

14 PRESERVATION OF RECORDS

15 XI.

16 **IT IS FURTHER ORDERED** that defendants are hereby temporarily
17 restrained and enjoined from destroying, erasing, mutilating, concealing, altering,
18 transferring, writing over, or otherwise disposing of, in any manner, directly or
19 indirectly, any documents or records of any kind that relate to the business
20 practices or business or personal finances of the Corporate defendants and
21 Individual defendants, including but not limited to, computerized files and storage
22 media on which information has been saved (including, but not limited to, floppy
23 disks, hard drives, CD-ROMS, zip disks, punch cards, magnetic tape, backup tapes,
24 and computer chips), and any and all equipment needed to read any such material,
25 contracts, accounting data, correspondence, advertisements (including, but not
26 limited to, advertisements placed on the World Wide Web or the Internet), FTP

1 logs, Service Access Logs, USENET Newsgroup postings, World Wide Web
2 pages, books, written or printed records, handwritten notes, telephone logs,
3 telephone scripts, receipt books, ledgers, personal and business canceled checks
4 and check registers, bank statements, appointment books, copies of federal, state or
5 local business or personal income or property tax returns, and other documents or
6 records of any kind that relate to the business practices or business or personal
7 finances of the Corporate defendants and Individual defendants.

8 **IDENTIFICATION OF AFFILIATES AND CUSTOMERS**

9 **XII.**

10 **IT IS FURTHER ORDERED** that the Corporate defendants and Individual
11 defendants shall, within five (5) days of service of this Order, prepare and deliver
12 to plaintiffs a completed statement, verified under oath and accurate as of the date
13 of entry of this Order, identifying by name, address, phone number, and any
14 affiliate code of all affiliate marketers, sub-affiliate marketers, agents, vendors,
15 hosting companies, employees, and contractors that have worked with the Enternet
16 Media defendants in connection with the distribution of the Enternet Media
17 defendants' software code.

18 **RECORD KEEPING/BUSINESS OPERATIONS**

19 **XIII.**

20 **IT IS FURTHER ORDERED** that the Corporate defendants and Individual
21 defendants are hereby temporarily restrained and enjoined from:

22 A. Failing to create and maintain documents that, in reasonable detail,
23 accurately, fairly, and completely reflect their incomes, disbursements,
24 transactions, and use of money; and

25 B. Creating, operating, or exercising any control over any business entity,
26 including any partnership, limited partnership, joint venture, sole proprietorship, or
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1 corporation, without first providing plaintiff Commission with a written statement
2 disclosing: (1) the name of the business entity; (2) the address and telephone
3 number of the business entity; (3) the names of the business entity's officers,
4 directors, principals, managers and employees; and (4) a detailed description of the
5 business entity's intended activities.

6 **DISTRIBUTION OF ORDER BY DEFENDANTS**

7 **XIV.**

8 **IT IS FURTHER ORDERED** that the Individual defendants and Corporate
9 defendants shall immediately provide a copy of this Order to each affiliate
10 marketer, sub-affiliate marketer, affiliate, subsidiary, hosting company, email
11 server, division, sales entity, successor, assign, officer, director, employee,
12 independent contractor, client company, agent, attorney, and spouse of each
13 Individual defendant and each Corporate defendant, and shall, within ten (10) days
14 from the date of entry of this Order, provide the Commission with a sworn
15 statement that the Individual defendants and the Corporate defendants have
16 complied with this provision of the Order, which statement shall include the names,
17 physical addresses, and e-mail addresses of each such person or entity who
18 received a copy of the Order.

19 **SERVICE OF ORDER**

20 **XV.**

21 **IT IS FURTHER ORDERED** that copies of this Order may be served by
22 any means, including facsimile transmission, upon any financial institution or other
23 entity or person that may have possession, custody, or control of any documents of
24 any Individual defendant or Corporate defendant, or that may otherwise be subject
25 to any provision of this Order. Service upon any branch or office of any financial
26 institution shall effect service upon the entire financial institution.

1 65(b), that each Individual defendant and each Corporate defendant shall appear
2 before this Court on the 14th day of November, 2005, at 3:30
3 o'clock P.m., to show cause, if there is any, why this Court should not enter a
4 Preliminary Injunction, pending final ruling on the Complaint against defendants,
5 enjoining them from further violations of Section 5(a) of the Federal Trade
6 Commission Act, continuing the freeze of their assets, and imposing such
7 additional relief as may be appropriate.

8 **SERVICE UPON PLAINTIFF**

9 **XX.**

10 **IT IS FURTHER ORDERED** that, with regard to any correspondence or
11 pleadings related to this Order, service on the Commission shall be performed by
12 overnight mail delivery to the attention of Mona Spivack at the Federal Trade
13 Commission, 600 Pennsylvania Avenue, NW, Room H-238, Washington, DC
14 20580.

15 **RETENTION OF JURISDICTION**

16 **XXI.**

17 **IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this
18 matter for all purposes. No security is required of any agency of the United States
19 for the issuance of a restraining order. Fed. R. Civ. P. 65(c).

20
21 **SO ORDERED**, this 1st day of November, 2005, at

22 3:30 p.m.

23
24 CHRISTINA A. SNYDER

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26
27
28 UNITED STATES DISTRICT JUDGE