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16 IN THE UNITED STATES DISTRICT COURT
17 FOR THE CENTRAL DISTRICT OF CALIFORNIA
18 WESTERN DIVISION
19

20 UNITED STATES OF AMERICA,)

21 Plaintiff,)

22 v.)

23 DIRECTV, Inc., et al.)
24)

Civ. No.

STIPULATED JUDGMENT
AND ORDER FOR PERMANENT
INJUNCTION AGAINST
DIRECTV, INC.

25
26 Plaintiff, the United States of America, acting upon
27 notification and authorization to the Attorney General by the
28 Federal Trade Commission ("FTC" or the "Commission"), has

1 commenced this action by filing the complaint herein, and
2 Defendant DIRECTV, Inc., has waived service of the summons and
3 the complaint. The parties, represented by the attorneys whose
4 names appear hereafter, have agreed to settlement of this action
5 without adjudication of any issue of fact or law, and without
6 Defendant admitting liability for any of the violations alleged
7 in the complaint.

8 **THEREFORE**, on the joint motion of the parties, it is hereby
9 **ORDERED, ADJUDGED AND DECREED** as follows:

10 **FINDINGS**

11 1. This Court has jurisdiction over the subject matter
12 pursuant to 28 U.S.C. §§ 1331, 1337(a), 1345 and 1355, and 15
13 U.S.C. §§ 45(m)(1)(A), 53(b), 56(a), and 57b.

14 2. Plaintiff and Defendant consent to jurisdiction and
15 venue in this District.

16 3. The activities of Defendant are in or affecting
17 commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

18 4. The complaint states a claim upon which relief may be
19 granted against Defendant, under Sections 5(a), 5(m)(1)(A), 13(b)
20 and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C.
21 §§ 45(a), 45(m)(1)(A), 53(b), and 57b.

22 5. Defendant hereby waives all rights to appeal or
23 otherwise challenge or contest the validity of this Order.

24 6. Defendant has agreed that this Order does not entitle
25 Defendant to seek or to obtain attorneys' fees as a prevailing
26 party under the Equal Access to Justice Act, 28 U.S.C. § 2412,
27 and Defendant further waives any rights to attorneys' fees that
28 may arise under said provision of law.

1 7. DIRECTV denies any violations of the Telemarketing
2 Sales Rule or any provisions of law cited in paragraph 4 above,
3 but has entered into this Stipulated Judgment and Order for
4 Permanent Injunction freely and without coercion in order to
5 settle and resolve Plaintiff's claims against it.

6 8. Entry of this Order is in the public interest.

7 **DEFINITIONS**

8 For the purpose of this Order, the following definitions
9 shall apply:

10 1. "Defendant" or "DIRECTV" means DIRECTV, Inc., its
11 subsidiaries, officers, agents, servants, employees, and
12 attorneys.

13 2. The "Telemarketing Sales Rule" or "Rule" means the FTC
14 Rule entitled "Telemarketing Sales Rule," 16 C.F.R. § 310,
15 attached hereto as Appendix A.

16 3. "Customer" means any person who is or may be required
17 to pay for goods or services offered through telemarketing.

18 4. "Outbound telephone call" means a telephone call
19 initiated by a telemarketer to induce the purchase of goods or
20 services or to solicit a charitable contribution.

21 5. "Person" means any individual, group, unincorporated
22 association, limited or general partnership, corporation, or
23 other business entity.

24 6. "Telemarketing" means a plan, program, or campaign
25 which is conducted to induce the purchase of goods or services or
26 a charitable contribution, by use of one or more telephones and
27 which involves more than one interstate telephone call. The term
28 does not include the solicitation of sales through the mailing of

1 a catalog which: contains a written description or illustration
2 of the goods or services offered for sale; includes the business
3 address of the seller; includes multiple pages of written
4 material or illustrations; and has been issued not less
5 frequently than once a year, when the person making the
6 solicitation does not solicit customers by telephone but only
7 receives calls initiated by customers in response to the catalog
8 and during those calls takes orders only without further
9 solicitation. For purposes of the previous sentence, the term
10 "further solicitation" does not include providing the customer
11 with information about, or attempting to sell, any other item
12 included in the same catalog which prompted the customer's call
13 or in a substantially similar catalog.

14 7. "Seller" means any person who, in connection with a
15 telemarketing transaction, provides, offers to provide, or
16 arranges for others to provide goods or services to the customer
17 in exchange for consideration, whether or not such person is
18 under the jurisdiction of the Federal Trade Commission.

19 8. "Telemarketer" means any person who, in connection with
20 telemarketing, initiates or receives telephone calls to or from a
21 customer or donor.

22 9. "Authorized Telemarketer" means a person that has
23 received express, written authorization from DIRECTV to use
24 telemarketing to market DIRECTV goods or services.

25 10. "National Do Not Call Registry" means the National Do
26 Not Call Registry maintained by the Federal Trade Commission
27 pursuant to 16 C.F.R. § 310.4(b)(1)(iii)(B).

28

1 11. "Established business relationship" means a
2 relationship between the seller and a person based on: (a) the
3 person's purchase, rental, or lease of the seller's goods or
4 services or a financial transaction between the person and
5 seller, within the eighteen (18) months immediately preceding the
6 date of the telemarketing call; or (b) the person's inquiry or
7 application regarding a product or service offered by the seller,
8 within the three months immediately preceding date of a
9 telemarketing call.

10 12. "DIRECTV goods or services" means satellite programming
11 and all other goods or services.

12 13. "Authorized Marketer" means a business or other entity
13 with whom DIRECTV has entered into an agreement authorizing the
14 solicitation of DIRECTV goods or services.

15 **ORDER**

16 **I. PROHIBITION AGAINST AN ABUSIVE PATTERN OF TELEMARKETING CALLS**

17 **IT IS HEREBY ORDERED** that, in connection with telemarketing
18 DIRECTV goods or services, DIRECTV, whether acting directly or
19 indirectly through Authorized Telemarketers, is hereby
20 permanently restrained and enjoined from engaging in violations
21 of the Telemarketing Sales Rule, including but not limited to:

22 A. Initiating any outbound telephone call to a person
23 when:

- 24 1. that person previously has stated to DIRECTV or an
25 Authorized Telemarketer that he or she does not
26 wish to receive an outbound telephone call made by
27 or on behalf of DIRECTV, unless the provisions of
28

1 16 C.F.R. § 310.4(b)(3) (the Telemarketing Sales
2 Rule Do Not Call safe harbor) are met;

3 2. that person's telephone number is on the National
4 Do Not Call Registry, unless:

5 a. DIRECTV has obtained the express agreement,
6 in writing, of such person to place calls to
7 that person, clearly evidencing such person's
8 authorization that calls made by or on behalf
9 of DIRECTV may be placed to that person, and
10 including the telephone number to which the
11 calls may be placed and the signature of that
12 person; or

13 b. DIRECTV has an established business
14 relationship with such person, and that
15 person has not stated to DIRECTV or an
16 Authorized Telemarketer that he or she does
17 not wish to receive outbound telephone calls
18 pursuant to § 310.4(b)(1)(iii)(A) of the
19 Telemarketing Sales Rule; or

20 c. The provisions of 16 C.F.R. § 310.4(b)(3)
21 (the Telemarketing Sales Rule Do Not Call
22 safe harbor) are met.

23 B. Abandoning any outbound telephone call to a person by
24 failing to connect the call to a representative within
25 two (2) seconds of the person's completed greeting,
26 unless the following four (4) conditions are met:

27 1. DIRECTV or an Authorized Telemarketer employ
28 technology that ensures abandonment of no more

1 than three (3) percent of all calls answered by a
2 person, measured per day per calling campaign;

3 2. Defendant or an Authorized Telemarketer, for each
4 telemarketing call placed, allows the telephone to
5 ring for at least fifteen (15) seconds or four (4)
6 rings before disconnecting;

7 3. Whenever a representative is not available to
8 speak with the person answering the call within
9 two (2) seconds after the person's completed
10 greeting, DIRECTV or an Authorized Telemarketer
11 promptly plays a recorded message that states the
12 name and telephone number of the seller on whose
13 behalf the call was placed;

14 4. DIRECTV or an Authorized Telemarketer retains
15 records, in accordance with 16 C.F.R. 310.5(b)-
16 (d), establishing compliance with the preceding
17 three conditions.

18 C. Pending resolution of the proceeding to amend the TSR,
19 69 Fed. Reg. 67287 (Nov. 17, 2004), DIRECTV or an
20 Authorized Telemarketer will not be deemed to be in
21 violation of the TSR's call abandonment prohibition, 16
22 CFR 310.4(b)(1)(iv), or Paragraph B of this Order,
23 immediately above, for placing a telephone call that
24 delivers a prerecorded telemarketing message to a
25 consumer with whom DIRECTV has an established business
26 relationship, as defined in the TSR, if DIRECTV or an
27 Authorized Telemarketer conducts such call in
28 conformity with the terms of the proposed amended call

1 abandonment safe harbor published in the Nov. 17, 2004
2 Federal Register Notice at 69 Fed. Reg. 67287 (copy
3 appended as Appendix B). Upon resolution of that rule
4 amendment proceeding, subparagraph B of this Paragraph
5 will be deemed to incorporate any amendments to
6 § 310.4(b)(4), and subparagraph C of this Paragraph
7 will have no further effect.

8 D. If the Commission amends the Telemarketing Sales Rule,
9 ~~in whole or part, DIRECTV and its Authorized~~
10 Telemarketers shall, in connection with telemarketing
11 DIRECTV goods or services, comply fully and completely
12 with all applicable requirements of the amended Rule,
13 on and after the effective date of any such amended
14 Rule.

15 **II. MONITORING OF AUTHORIZED TELEMARETERS**

16 **IT IS FURTHER ORDERED** that DIRECTV is hereby permanently
17 restrained and enjoined from:

18 A. Failing to conduct a reasonable due diligence
19 investigation of a person before making the person an
20 Authorized Telemarketer, to ensure that the person has
21 established and actively enforces effective policies
22 and procedures for compliance with the Telemarketing
23 Sales Rule, including procedures to prevent the
24 initiation of outbound telemarketing calls to numbers
25 on the National Do Not Call Registry, in violation of
26 16 C.F.R. § 310.4(b)(1)(iii), and to prevent call
27 abandonment, in violation of § 310.4(b)(1)(iv);
28

1 B. Failing to have a written contract with each Authorized
2 Telemarketer;

3 C. Failing to include in the written contract with each
4 Authorized Telemarketer requirements that the
5 Authorized Telemarketer comply with all provisions of
6 the Telemarketing Sales Rule, including, but not
7 limited to, § 310.4(b)(1)(iii) and (iv);

8 D. Failing to monitor outbound telemarketing campaigns
9 conducted by an Authorized Telemarketer to determine
10 whether:

11 1. Any telemarketing call is placed only to a
12 telephone number that is -

13 a. not on the National Do Not Call Registry
14 and not on an individual do not call
15 list maintained by DIRECTV or any of its
16 Authorized Telemarketers; or

17 b. on the National Do Not Call Registry,
18 *provided* that the customer either has
19 given his or her express agreement in
20 writing to receive telemarketing calls
21 at that number, or has an established
22 business relationship with DIRECTV;

23 2. Not more than three percent (3%) of telemarketing
24 calls answered by a person, measured per day per
25 calling campaign, are being connected to a pre-
26 recorded message in lieu of a live sales
27 representative, pursuant to 16 C.F.R.
28 §§ 310.4(b)(1)(iv) and 310.4(b)(4);

1 E. Providing any monetary compensation for any
2 telemarketing related sales or activities, including
3 but not limited to hourly rates of pay or commissions,
4 to any Authorized Telemarketer after DIRECTV knows or
5 reasonably should have known that such Authorized
6 Telemarketer has, in connection with telemarketing
7 DIRECTV goods and services;

8 (i) failed to fulfill contract requirements with
9 respect to compliance with the Telemarketing
10 Sales Rule, or

11 (ii) violated the Telemarketing Sales Rule.

12 F. Continuing to do business with any Authorized
13 Telemarketer that fails to fulfill contract
14 requirements with respect to compliance with the
15 Telemarketing Sales Rule, or violates any provision of
16 the Telemarketing Sales Rule.

17 *Provided, however, that this Paragraph does not prohibit*
18 *DIRECTV from entering into a subscription agreement with a*
19 *consumer who was called by an Authorized Telemarketer that fails*
20 *to fulfill contract requirements with respect to compliance with*
21 *the Telemarketing Sales Rule, violates any provision of the*
22 *Telemarketing Sales Rule, or fails to comply with Paragraph I of*
23 *this Order.*

24 **III. MONITORING OF AUTHORIZED MARKETERS**

25 **IT IS FURTHER ORDERED** that DIRECTV is hereby permanently
26 restrained and enjoined from:

- 1 A. Failing to monitor Authorized Marketers to determine
2 whether they are initiating contact with consumers
3 through outbound telephone calls to telemarket DIRECTV
4 goods or services; and
- 5 B. Doing business with any Authorized Marketer and shall
6 not provide any monetary compensation, including but
7 not limited to hourly rates of pay or commissions, to
8 any Authorized Marketer who DIRECTV knows or should
9 know engages in the following conduct:

- 10 1. initiating contact with consumers through outbound
11 telephone calls to telemarket DIRECTV goods or
12 services without express, written authorization
13 from DIRECTV; or
- 14 2. entering into any type of agreement with any other
15 person to initiate contact with consumers through
16 outbound telephone calls to telemarket DIRECTV
17 goods or services.

18 *Provided, however, this Paragraph does not prohibit DIRECTV*
19 *from entering into a subscription agreement with a consumer who*
20 *was called in violation of the Telemarketing Sales Rule, or by a*
21 *person who has engaged in any of the conduct described in*
22 *subparagraph B of this Paragraph of this Order.*

23 **IV. ADDITIONAL MONITORING**

24 **IT IS FURTHER ORDERED** that DIRECTV is hereby permanently
25 restrained and enjoined from failing to take the following
26 actions with regard to Authorized Telemarketers and Authorized
27 Marketers:

1 A. DIRECTV shall develop, implement, adequately staff, and
2 continuously operate and maintain, a system to receive
3 and retain complaints related to telemarketing DIRECTV
4 goods and services that are received by telephone,
5 mail, and e-mail. DIRECTV shall take all reasonable
6 steps to obtain, record, retain, and make easily
7 accessible to DIRECTV and, upon reasonable request, the
8 FTC, all relevant information regarding all complaints
9 relating to telemarketing of DIRECTV goods or services,
10 including but not limited to: (1) the consumer's name,
11 address, and telephone number; (2) the substance of the
12 complaint, including the name of any person referenced;
13 (3) the nature and result of any investigation
14 conducted concerning the complaint; (4) each response
15 to the complaint and the date of such response to the
16 complaint; (5) any final resolution of the complaint,
17 and the date of such resolution; (6) in the event of a
18 denial of any resolution, the reason for the denial;
19 (7) the name, telephone number, and address of the
20 Authorized Telemarketer or Authorized Marketer which
21 made the call that was the basis for the complaint; (8)
22 the date of the call; and (9) any relevant information
23 for determining whether a violation of the
24 Telemarketing Sales Rule has occurred. The system for
25 complaints related to telemarketing shall be capable of
26 producing and shall produce monthly reports that show
27 (1) the aggregate number of complaints relating to
28 telemarketing, (2) the total number and type of

1 telemarketing complaints for each Authorized
2 Telemarketer, and (3) the total number and type of
3 telemarketing complaints for each Authorized Marketer;

4 B. DIRECTV shall promptly investigate each consumer
5 complaint relating to telemarketing or the
6 Telemarketing Sales Rule and shall take all reasonable
7 steps to identify the person whose activities prompted
8 the complaint; and

9 C. ~~At the time DIRECTV activates a new subscriber, DIRECTV~~
10 shall ask how the person was solicited and shall note
11 and keep records of any response indicating that the
12 person was initially solicited by an outbound telephone
13 call. For each subscriber who indicates that he or she
14 was contacted initially through an outbound telephone
15 call, DIRECTV shall, as soon as practicable, identify
16 the Authorized Marketer who will receive the payment
17 from DIRECTV in respect to such subscriber activation
18 and use this information to monitor compliance with
19 this Order. DIRECTV shall keep this procedure in place
20 for a period of three (3) years after November 15,
21 2005, or three (3) years after the date of entry of
22 this Order, whichever date is later.

23 **V. PROHIBITION ON ASSISTING AND FACILITATING**

24 **IT IS FURTHER ORDERED** that DIRECTV is hereby permanently
25 restrained and enjoined from providing substantial assistance and
26 support to any telemarketer when DIRECTV knows or consciously
27 avoids knowing that the telemarketer is engaged in one or more
28 violations of the Telemarketing Sales Rule.

1 **VI. CIVIL PENALTY**

2 **IT IS FURTHER ORDERED** that judgment in the amount of Five
3 Million Three Hundred Thirty Five Thousand Dollars
4 (\$5,335,000.00) is hereby entered against DIRECTV as a civil
5 penalty pursuant to Section 5(m)(1)(A) of the Federal Trade
6 Commission Act, 15 U.S.C. § 45(m)(1)(A).

7 A. Prior to or concurrently with its execution of this
8 Order, DIRECTV shall transfer the civil penalty payment
9 in the form of a wire transfer or certified or
10 cashier's check made payable to the Treasurer of the
11 United States. The check or written confirmation of
12 the wire transfer shall be delivered to: Director,
13 Office of Consumer Litigation, U.S. Department of
14 Justice Civil Division, P.O. Box 386, Washington, DC
15 20044. The cover letter accompanying the check shall
16 include the title of this litigation and a reference to
17 DJ# 102-3316.

18 B. In the event of default on the payment required to be
19 made by this Paragraph, the entire unpaid civil
20 penalty, together with interest computed under 28
21 U.S.C. § 1961 -- accrued from the date of default until
22 the date of payment -- shall be immediately due and
23 payable.

24 C. DIRECTV shall cooperate fully with Plaintiff and the
25 Commission and their agents in all attempts to collect
26 the amount due pursuant to this Paragraph if DIRECTV
27 fails to pay fully the amount due at the time specified
28 herein. In such an event, DIRECTV agrees to provide

1 Plaintiff and the Commission with its federal and state
2 tax returns for the preceding two years, and to
3 complete new standard financial disclosure forms fully
4 and accurately within ten (10) business days of
5 receiving a request from Plaintiff or the Commission to
6 do so. DIRECTV further authorizes Plaintiff and the
7 Commission to verify all information provided on the
8 financial disclosure form from DIRECTV with all
9 appropriate third parties, including but not limited to
10 financial institutions.

11 D. In accordance with 31 U.S.C. § 7701, DIRECTV is hereby
12 required, unless DIRECTV has done so already, to
13 furnish to Plaintiff and the FTC, DIRECTV's taxpayer
14 identifying number(s) (employer identification numbers)
15 which shall be used for purposes of collecting and
16 reporting on any delinquent amount arising out of such
17 Defendant's relationship with the government.

18 E. DIRECTV agrees that the facts as alleged in the
19 complaint filed in this action shall be taken as true
20 for the purpose of a nondischargeability complaint in
21 any bankruptcy proceeding.

22 F. Proceedings instituted under this Paragraph are in
23 addition to, and not in lieu of, any other civil or
24 criminal remedies that may be provided by law,
25 including any other proceedings the Commission may
26 initiate to enforce this Order.

27 G. This Order resolves all allegations in the Complaint
28 against DIRECTV and that nothing in this Paragraph

1 permits the Commission to seek any additional remedies
2 for the conduct alleged in the complaint against
3 DIRECTV.

4 **VII. COMPLIANCE MONITORING**

5 **IT IS FURTHER ORDERED** that, for the purpose of monitoring
6 and investigating compliance with any provision of this Order,

7 A. Within thirty (30) days of receipt of written notice
8 from a representative of the Commission or Plaintiff,
9 ~~DIRECTV shall submit additional written reports, sworn~~
10 to under penalty of perjury; produce documents for
11 inspection and copying; appear for deposition; and/or
12 provide entry during normal business hours to any
13 business location in DIRECTV's possession, or direct or
14 indirect control, to inspect the business operation;

15 B. In addition, the Commission and Plaintiff are
16 authorized to monitor compliance with this Order by all
17 other lawful means, including but not limited to the
18 following:

19 1. Obtaining discovery from any person, without
20 further leave of court, using the procedures
21 prescribed by Fed. R. Civ. P. 30, 31, 33, 34,
22 36, and 45; and

23 2. Posing as consumers and suppliers to DIRECTV,
24 any of DIRECTV's employees, or any other
25 entity managed or controlled in whole or in
26 part by DIRECTV, without the necessity of
27 identification or prior notice; and
28

1 C. DIRECTV shall permit representatives of the Commission
2 or Plaintiff to interview any employer, consultant,
3 independent contractor, representative, agent, or
4 employee who has agreed to such an interview, relating
5 in any way to any conduct subject to this Order. The
6 person interviewed may have counsel present;

7 *Provided, however,* that nothing in this Order shall limit
8 the Commission's lawful use of compulsory process, pursuant to
9 Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to
10 obtain any documentary material, tangible things, testimony, or
11 information relevant to unfair or deceptive acts or practices in
12 or affecting commerce (within the meaning of 15 U.S.C.
13 § 45(a)(1)).

14 VIII. COMPLIANCE REPORTING

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

17 A. For a period of three (3) years from the date of entry
18 of this Order DIRECTV shall notify the Commission of
19 any changes in corporate structure that may affect
20 compliance obligations arising under this Order,
21 including but not limited to a dissolution, assignment,
22 sale, merger, or other action that would result in the
23 emergence of a successor entity; the creation or
24 dissolution of a subsidiary, parent, or affiliate that
25 engages in any acts or practices subject to this Order;
26 the filing of a bankruptcy petition; or a change in the
27 corporate name or address, at least thirty (30) days
28 prior to such change, *provided that,* with respect to

1 any proposed change in the corporation about which
2 DIRECTV learns less than thirty (30) days prior to the
3 date such action is to take place, DIRECTV shall notify
4 the Commission as soon as is practicable after
5 obtaining such knowledge.

6 B. One hundred eighty (180) days after the date of entry
7 of this Order, DIRECTV shall provide a written report
8 to the FTC, sworn to under penalty of perjury, setting
9 forth in detail the manner and form in which it has
10 complied and is complying with this Order. This report
11 shall include:

- 12 1. A copy of each acknowledgment of receipt of this
13 Order, obtained pursuant to Paragraph X of this
14 Order;
- 15 2. Any changes required to be reported pursuant to
16 subparagraph (A) of this Paragraph;
- 17 3. A list of the telephone numbers that DIRECTV or
18 any Authorized Telemarketers used or uses in
19 telemarketing since entry of this Order; and the
20 name and address of the phone company providing
21 service, including any telephone number programmed
22 to be transmitted for caller identification
23 purposes.
- 24 4. A list of all subscription account numbers DIRECTV
25 or any Authorized Telemarketers have used, uses,
26 or have obtained in connection with the National
27 Do Not Call Registry since entry of this Order;
- 28

1 5. A list of all Authorized Telemarketers and
2 Authorized Marketers, including the trade names
3 and any other names under which, to DIRECTV's
4 knowledge, these entities do business.

5 C. Once every twelve months, starting after the 180-day
6 report required in Paragraph VIII.B above is provided,
7 for a period of three years, DIRECTV shall provide a
8 written report to the FTC that includes a reasonably
9 detailed description of all monitoring activity taken
10 by DIRECTV pursuant to Paragraphs II, III, and IV of
11 this Order. The report shall also be served upon the
12 Board of Directors of DIRECTV. The report shall
13 include as applicable, but is not be limited to, the
14 following:

- 15 1. A reasonably detailed description of the due
16 diligence review DIRECTV performed on prospective
17 Authorized Telemarketers and the results of the
18 due diligence review;
- 19 2. The names, addresses and telephone numbers of all
20 Authorized Telemarketers and the dates they became
21 Authorized Telemarketers;
- 22 3. The names, addresses, and telephone numbers of all
23 Authorized Marketers;
- 24 4. The names, addresses, and telephone numbers of all
25 Authorized Telemarketers and all Authorized
26 Marketers who have been terminated by DIRECTV for
27 reasons related to telemarketing, the dates of the
28

1 terminations, and the specific reasons for
2 termination;

3 5. At the end of each quarter, starting after the
4 180-day report required in Paragraph VIII.B above
5 is provided, for a period of three years, DIRECTV
6 will provide a description of all outbound
7 telemarketing campaigns conducted by DIRECTV or
8 its Authorized Telemarketers during the previous
9 quarter, including, for each campaign, the dates
10 during which each campaign was in place and the
11 average number of calls made each day. At the
12 Commission's discretion, in each quarter, it may
13 request detailed data for up to three days for one
14 telemarketing campaign or one day each for each
15 campaign. For each selected day, DIRECTV will
16 supply the names of the entities making the calls,
17 the telephone numbers each entity called, the
18 basis for any established business relationship
19 between DIRECTV and a person at the number called,
20 or if such person does not have an established
21 business relationship with DIRECTV, the reason why
22 that person was called;

23 6. A detailed description of the methodology and
24 results of DIRECTV's investigation of any call by
25 an Authorized Telemarketer to a telephone number
26 on the National Do Not Call Registry which shall
27 include, but not be limited to, (a) the date of
28 the call, (b) whether there is an existing

1 business relationship with the consumer, and (c) if
2 there is an existing business relationship, the
3 date it began;

4 7. Evidence showing that DIRECTV developed,
5 implemented, staffed, and operated a system for
6 complaints related to telemarketing pursuant to
7 Paragraph IV of this Order;

8 8. Evidence showing that DIRECTV took all reasonable
9 steps to capture, record and retain every
10 complaint relating to telemarketing that it
11 received;

12 9. Evidence showing that DIRECTV took all reasonable
13 steps to obtain, record, and retain all relevant
14 information regarding all complaints relating to
15 telemarketing DIRECTV goods or services,
16 including, to the extent provided by the
17 complainant or discovered through investigation:
18 (1) the consumer's name, address, and telephone
19 number; (2) the substance of the complaint,
20 including the name of any person referenced; (3)
21 the nature and result of any investigation
22 conducted concerning the complaint; (4) each
23 response to the complaint, and the date of such
24 response to the complaint; (5) any final
25 resolution of the complaint, and the date of such
26 resolution; (6) in the event of a denial of any
27 resolution, the reason for the denial; (7) the
28 name, telephone number, and address of the

1 Authorized Telemarketer or Authorized Marketer;
2 (8) the date of the call; and (9) any relevant
3 information for determining whether a violation of
4 the Telemarketing Sales Rule has occurred;

5 10. Evidence showing that DIRECTV's system for
6 complaints related to telemarketing produced
7 monthly reports pursuant to Paragraph IV of this
8 Order;

9 11. Copies of all monthly reports showing the
10 aggregate number of complaints relating to
11 telemarketing, the total number and type of
12 telemarketing complaints for each Authorized
13 Telemarketer, and the total number and type of
14 telemarketing complaints for each Authorized
15 Marketer;

16 12. Evidence showing that DIRECTV promptly
17 investigated each consumer complaint relating to
18 telemarketing and took all reasonable steps to
19 identify the person whose activities prompted the
20 consumer complaint; and

21 13. Evidence showing that DIRECTV has complied with
22 Paragraph IV.C.

23 D. For the purposes of this Order, DIRECTV shall, unless
24 otherwise directed by the Commission's authorized
25 representatives, mail all written notifications to the
26 Commission to:

1 Associate Director for Enforcement
2 Federal Trade Commission
3 601 New Jersey Ave., NW
4 Washington, DC 20580
5 Re: United States v. DIRECTV, Civ. No. ____.

6 The Commission shall, unless otherwise directed by
7 DIRECTV's officers or attorneys, mail all written
8 notifications to DIRECTV to:

9 Executive Vice President, General Counsel
10 DIRECTV, Inc.
11 2230 East Imperial Hwy., 11th Floor
12 El Segundo, CA 90245

13 E. For the purposes of this Order, DIRECTV shall, unless
14 otherwise directed by a representative of Plaintiff,
15 identify all written notifications to Plaintiff as
16 provided in reference to DJ# 102-3316, and mail them
17 to:

18 Director, Office of Consumer Litigation
19 U.S. Department of Justice - Civil Division
20 P.O. Box 386
21 Washington, DC 20044.

22 F. For purposes of the compliance reporting and monitoring
23 required by this Order, representatives of Plaintiff
24 and the Commission are authorized to communicate
25 directly with officers of DIRECTV.

26 **IX. RECORD KEEPING PROVISIONS**

27 **IT IS FURTHER ORDERED** that, for a period of six (6) years
28 from the date of entry of this Order, DIRECTV and its successors
and assigns, shall maintain and make available to the Plaintiff
or Commission, within thirty (30) days of the receipt of a
written request, business records demonstrating compliance with
the terms and provisions of this Order.

1 **X. DISTRIBUTION OF ORDER BY DEFENDANT**

2 **IT IS FURTHER ORDERED** that, for a period of three (3) years
3 from the date of entry of this Order, DIRECTV shall deliver
4 copies of this Order as directed below:

5 A. DIRECTV must deliver a copy of this Order to all
6 officers and directors. DIRECTV shall also deliver a
7 copy of this Order to all of its employees who are
8 responsible for telemarketing DIRECTV goods or
9 services, handling telemarketing complaints, or
10 maintaining records relating to telemarketing
11 complaints or other telemarketing activities. For the
12 current officers, directors and employees described
13 above, delivery of this Order shall be within five (5)
14 days of service of this Order on DIRECTV. For new
15 personnel, delivery shall occur prior to them assuming
16 their responsibilities with DIRECTV.

17 B. DIRECTV must secure a signed and dated statement
18 acknowledging receipt of this Order, within thirty (30)
19 days of delivery, from all persons receiving a copy of
20 this Order pursuant to this Paragraph.

21 **XI. ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANT**

22 **IT IS FURTHER ORDERED** that DIRECTV, within five (5) business
23 days of receipt of this Order as entered by the Court, must
24 submit to the Plaintiff and the Commission a truthful sworn
25 statement acknowledging receipt of this Order.

1 **XII. FEES AND COSTS**

2 **IT IS FURTHER ORDERED** that each party to this Order hereby
3 agrees to bear its own costs and attorneys' fees incurred in
4 connection with this action.

5 **XIII. SEVERABILITY**

6 **IT IS FURTHER ORDERED** that the provisions of this Order are
7 separate and severable from one another. If any provision is
8 stayed or determined to be invalid, the remaining provisions
9 shall remain in full force and effect.

10 **XIV. RETENTION OF JURISDICTION**

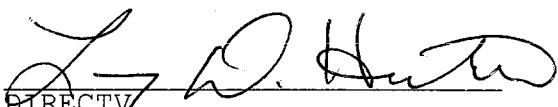
11 **IT IS FURTHER ORDERED** that this Court shall retain
12 jurisdiction of this matter for purposes of construction,
13 modification and enforcement of this Order.

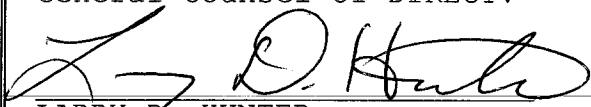
14 **XV. COMPLETE SETTLEMENT**

15 The parties, by their respective counsel, hereby consent to
16 entry of the foregoing Order which shall constitute a final
17 judgment and order in this matter. The parties further stipulate
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1 and agree that the entry of the foregoing Order shall constitute
2 a full, complete and final settlement of this action.

3
4 **FOR THE DEFENDANTS:**

5 
6 DIRECTV
7 By: Larry D. Hunter
8 Executive Vice President and
9 General Counsel of DIRECTV

10 
11 LARRY D. HUNTER
12 Counsel for DIRECTV

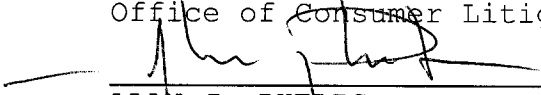
4 **FOR THE PLAINTIFF:**

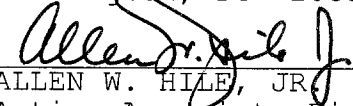
PETER D. KEISLER, JR.
Assistant Attorney General
Civil Division
U.S. DEPARTMENT OF JUSTICE

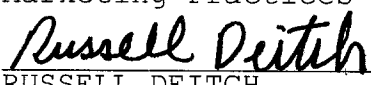
DEBRA W. YANG
United States Attorney
Central District of California

LINDA KONTOS
Assistant U.S. Attorney

EUGENE M. THIROLF
Director
Office of Consumer Litigation

13 
14 ALAN J. PHELPS
15 Trial Attorney
16 Office of Consumer Litigation
17 Civil Division
18 U.S. Department of Justice
19 Washington, DC 20530

20 
21 ALLEN W. HILE, JR.
22 Acting Associate Director for
23 Marketing Practices

24 
25 RUSSELL DEITCH
26 GARY IVENS
27 Attorneys, Federal Trade
28 Commission
600 Pennsylvania Ave, N.W.,
Washington, DC 20580

24 **IT IS SO ORDERED.**

25 DATED: _____

26 _____
27 UNITED STATES DISTRICT JUDGE
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