

AE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

<hr/>		)
FEDERAL TRADE COMMISSION,		)
		)
Plaintiff,		)
		)
v.	Civil Action No. 05 C 6485	)
		)
MARK E. SHELTON,	Judge Wayne R. Andersen	)
		)
WHOLESALE MARKETING GROUP, LLC,	Magistrate Judge Arlander Keys	)
		)
WHOLESALE MARKETING GROUP, INC.,		)
		)
JEREMY WILSON, individually and doing business as		)
PURE HOME AIR PROFITS,		)
		)
ROBERT M. GOMEZ,		)
		)
LUIS D. AVILES, and		)
		)
CARL J. SHELTON, JR.,		)
		)
Defendants, and		)
		)
MARIANNE SHELTON,		)
		)
JULIE SHELTON, and		)
		)
M. EDWARD SHELTON HYPNOTHERAPY, LLC,		)
		)
Relief Defendants.		)
<hr/>		)

**STIPULATED FINAL ORDER AND JUDGMENT AS TO DEFENDANT CARL J. SHELTON, JR. AND RELIEF DEFENDANTS MARIANNE SHELTON, JULIE SHELTON AND M. EDWARD SHELTON HYPNOTHERAPY, LLC**

Plaintiff, the Federal Trade Commission ("FTC"), commenced this action on November

15, 2005, by filing its Complaint against defendants Mark E. Shelton; Wholesale Marketing Group, LLC; Jeremy Wilson, individually and doing business as Pure Home Air Profits; Robert M. Gomez; and Luis D. Aviles. The Complaint alleges that the defendants engaged in deceptive acts or practices in violation of Section 5 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 45, in connection with the marketing and sale of work-at-home business opportunities. On Plaintiff’s motion supported by a memorandum of law, declarations, and other exhibits, the Court issued an *ex parte* temporary restraining order including an asset freeze on November 15, 2005. On April 26, 2006, the FTC filed its First Amended Complaint against Wholesale Marketing Group, Inc. and Carl J. Shelton, Jr., as additional defendants; and against Marianne Shelton, Julie Shelton, and M. Edward Shelton Hypnotherapy, LLC, as relief defendants. The FTC, defendant Carl J. Shelton, Jr. and relief defendants Marianne Shelton, Julie Shelton, and M. Edward Shelton Hypnotherapy, LLC (collectively, the “settling defendants”), now hereby stipulate to the entry of this Final Order and Judgment (“Order”).

### FINDINGS

By stipulation of the parties and being advised of the premises, the Court finds:

1. This is an action by the FTC instituted pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b). The First Amended Complaint seeks permanent injunctive relief, rescission of contracts, restitution, and disgorgement of ill-gotten gains for defendants’ alleged deceptive acts or practices in connection with the marketing and sale of work-at-home business opportunities.
2. The FTC has the authority under Section 13(b) of the FTC Act to seek the relief it has requested, and the First Amended Complaint states a claim upon which relief can be granted

against defendant Carl J. Shelton, Jr. and relief defendants Marianne Shelton, Julie Shelton, and M. Edward Shelton Hypnotherapy, LLC.

3. This Court has jurisdiction over the subject matter of this case and has jurisdiction over defendant Carl J. Shelton, Jr. and relief defendants Marianne Shelton, Julie Shelton, and M. Edward Shelton Hypnotherapy, LLC. Venue in the Northern District of Illinois is proper.

4. The activities of defendant Carl J. Shelton, Jr. and relief defendants Marianne Shelton, Julie Shelton, and M. Edward Shelton Hypnotherapy, LLC as alleged in the First Amended Complaint, are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

5. The parties stipulate and agree to entry of this Order, without trial or final adjudication as to liability, to settle and resolve all matters in dispute arising from the conduct alleged in the First Amended Complaint to the date of entry of this Order. This agreement does not settle and resolve any matters not alleged in the First Amended Complaint. Defendant Carl J. Shelton, Jr. and relief defendants Marianne Shelton, Julie Shelton, and M. Edward Shelton Hypnotherapy, LLC, do not admit any of the allegations set forth in the First Amended Complaint, other than the jurisdictional facts, merely by stipulating and agreeing to the entry of this Order.

6. Defendant Carl J. Shelton, Jr. and relief defendants Marianne Shelton, Julie Shelton, and M. Edward Shelton Hypnotherapy, LLC waive all rights to seek judicial review or otherwise challenge or contest the validity of this Order. The settling defendants also waive any claim that they may have held under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action to the date of this Order. Each settling party shall bear

its own costs and attorneys' fees.

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

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

### **DEFINITIONS**

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

1. "Assisting others" means providing any of the following goods or services to any person or entity:

- (a) performing customer service functions, including but not limited to, receiving or responding to consumer complaints;
- (b) formulating or providing, or arranging for the formulation or provision of, any telephone sales script or any other written marketing material;
- (c) providing names of, or assisting in the generation of, potential customers;
- (d) performing marketing services of any kind; or
- (e) acting as an officer or director of a business entity.

2. "Business Venture" means any written or oral business arrangement, however denominated, which consists of the payment of any consideration for:

- (a) the right or means to offer, sell, or distribute goods or services (whether or not identified by a trademark, service mark, trade name, advertising, or other commercial symbol); and
- (b) assistance to any person or entity in connection with or incident to the establishment, maintenance, or operation of a new business or the entry by

an existing business into a new line or type of business.

3. "Document(s)" or "record(s)" means:

- (a) The original or a true copy of any written, typed, printed, electronically-stored, transcribed, taped, recorded, filmed, punched, or graphic matter or other data compilations of any kind, including but not limited to, letters, e-mail or other correspondence, messages, memoranda, interoffice communications, notes, reports, summaries, manuals, optical and magnetic tapes or discs, tabulations, books, records, checks, invoices, work papers, journals, ledgers, statements, returns, reports, schedules, or files; and
- (b) Any information stored on: any desktop personal computers ("PCs") and workstations, laptops, notebooks, and other portable computers, whether assigned to individuals or in pools of computers available for shared use; home computers used for work-related purposes; backup disks and tapes, archive disks and tapes, and other forms of offline storage, whether stored onsite with the computer used to generate them, stored offsite in another company facility or stored offsite by a third-party, such as in a disaster recovery center; and computers and related offline storage used by defendants' participating associates, which may include persons who are not employees of the defendants or who do not work on defendants' premises.

4. "Employment opportunity" means any plan, program, product, or service represented to enable a purchaser to earn any consideration through any type of work.

5. "Investment opportunity" means anything, tangible or intangible, that is offered, offered for sale, sold, or traded based wholly or in part on representations, either express or implied, about past, present, or future income, profit, or appreciation.

6. "Work-at-home business opportunity" means any program, plan, product, or service represented to enable a participant or purchaser to earn any consideration while working at home.

### **PROHIBITION ON MISREPRESENTATIONS**

**I. IT IS HEREBY ORDERED** that Carl J. Shelton, Jr. and his agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from making, expressly or by implication, any false or misleading oral or written statement or representation in connection with the advertising, marketing, promotion, offering for sale, sale, or distribution of any product or service, including but not limited to:

- A. Misrepresenting that consumers are likely to earn a substantial amount of money;
- B. Misrepresenting that consumers will earn a specified amount of money;
- C. Misrepresenting that consumers will not be required to sell any products or services to earn money;
- D. Misrepresenting the income, earnings potential, profits, or sales volume consumers are likely to achieve;
- E. Misrepresenting the income, earnings potential, profits, or sales volume consumers have achieved in the past;
- F. Misrepresenting any fact material to a consumer's decision to purchase any

product or service;

G. Misrepresenting any aspect of the performance, efficacy, nature, or central characteristic of any product or service; and

H. Assisting others who violate any provision of this Section.

### **CONSUMER LISTS**

#### **II. IT IS FURTHER ORDERED that:**

A. Carl J. Shelton, Jr. and his agents, servants, employees, and attorneys, and those other persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are permanently restrained and enjoined from:

1. Selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, billing information (any data that enables any person to access another person's account, such as a credit card, checking, savings, share or similar account, utility bill, mortgage loan account, or debit card), e-mail address, or other identifying information of any person who submitted such information to Carl J. Shelton, Jr.; Wholesale Marketing Group, Inc.; Wholesale Marketing Group, LLC; and/or Jeremy Wilson d/b/a Pure Home Air Profits, at any time prior to entry of this Order, in connection with the purchase of any work-at-home business opportunity; and

2. Using or benefitting from, for commercial purposes, the name, address, telephone number, billing information (any data that enables any person to access another person's account, such as a credit card, checking, savings, share or similar account, utility bill, mortgage loan account, or debit card), e-mail address, or other identifying information of any person who submitted such information to Carl J. Shelton, Jr.; Wholesale Marketing Group, Inc.; Wholesale

Marketing Group, LLC; and/or Jeremy Wilson d/b/a Pure Home Air Profits, at any time prior to entry of this Order, in connection with the purchase of any work-at-home business opportunity; and

B. Within twenty (20) business days after entry of this Order, Carl J. Shelton, Jr. and his agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, shall destroy all originals and all copies in their possession of all personal or financial information described in subsection A of this Section.

#### **MONETARY RELIEF**

### **III. IT IS FURTHER ORDERED that:**

A. Mid America Bank shall, within ten (10) business days of the date of entry of this Order, transfer to the FTC or its designated agent all funds in frozen accounts held jointly or individually in the name(s) of Carl J. Shelton, Jr., Julie Shelton, Marianne Shelton, or M. Edward Shelton Hypnotherapy, LLC;

B. La Salle Bank shall, within ten (10) business days of the date of entry of this Order, transfer to the FTC or its designated agent all funds in frozen accounts held jointly or individually in the name of Julie Shelton;

C. Any funds received by the FTC pursuant to this Section III of this Order shall be deposited into a fund administered by the FTC or its agent to be used for equitable relief, including but not limited to, consumer redress and any attendant expenses for the administration of any redress funds. In the event that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the FTC may apply any remaining



funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to defendants' practices alleged in the First Amended Complaint. Any funds not used for such equitable relief shall be deposited to the U.S. Treasury as equitable disgorgement. The settling defendants shall have no right to challenge the FTC's choice of remedies or the manner of distribution;

D. While the settling defendants do not admit any of the facts alleged in the First Amended Complaint other than jurisdictional facts, the settling defendants agree that the facts as alleged in the First Amended Complaint shall be taken as true in the event of any subsequent litigation to collect amounts due pursuant to this Order, including but not limited to, a nondischargeability complaint in any bankruptcy proceeding;

E. The monetary relief entered pursuant to this Section III is equitable monetary relief, solely remedial in nature, and not a fine, penalty, punitive assessment or forfeiture;

F. Carl J. Shelton, Jr. and relief defendants Marianne Shelton, Julie Shelton, and M. Edward Shelton Hypnotherapy, LLC, acknowledge and agree that any money paid pursuant to this Order is irrevocably paid to the FTC for purposes of settlement between the FTC and the settling defendants. Carl J. Shelton, Jr. and relief defendants Marianne Shelton, Julie Shelton, and M. Edward Shelton Hypnotherapy, LLC, relinquish all rights, title, and interest to such money; and

G. Carl J. Shelton, Jr. and relief defendants Marianne Shelton, Julie Shelton, and M. Edward Shelton Hypnotherapy, LLC, are hereby required to furnish to the FTC any and all tax identification numbers for them, or for any business they own or control, to the extent they have not already done so, within ten (10) business days of the date of entry of this Order. That

information shall be used for purposes of collecting and reporting on any delinquent amount arising out of this Order.

#### ASSET FREEZE

IV. **IT IS FURTHER ORDERED** that, upon entry of this Order and transfer of the assets set forth in Section III, the freeze of the settling defendants' assets shall be dissolved.

#### RIGHT TO REOPEN

V. **IT IS FURTHER ORDERED** that the FTC's agreement to this Order is expressly premised on the truthfulness, accuracy, and completeness of financial statements previously submitted by Carl J. Shelton, Jr. on May 28, 2006, and by Julie Shelton and M. Edward Shelton Hypnotherapy, LLC, on September 6, 2006.

A. If, upon motion by the FTC, the Court finds that his financial statement contains any material misrepresentation or omission, the Court shall automatically enter judgment against Carl J. Shelton, Jr., and in favor of the FTC, in the amount of \$1,493,793.69 (the amount of consumer injury in this case), less any amounts already paid by any defendants in the above-captioned matter or pursuant to the April 25, 2006 judgment in *Federal Trade Commission v. Financial Resources Unlimited, Inc., et al.*, CV No. 03 C 8864, and the entire amount shall become immediately due and payable; *provided, however*, that in all other respects this Order shall remain in full force and effect unless otherwise ordered by the Court; and, *provided further*, that proceedings instituted under this provision would be in addition to, and not in lieu of, any other civil or criminal remedies as may be provided by law, including any other proceedings that the FTC may initiate to enforce this order;

B. If, upon motion by the FTC, the Court finds that Julie Shelton's or M. Edward

Shelton Hypnotherapy's financial statements contain any material misrepresentation or omission, the Court shall automatically enter judgment against that relief defendant, and in favor of the FTC, in the amount of \$83,350 for Julie Shelton and \$16,750 for M. Edward Shelton Hypnotherapy, less any amounts already paid pursuant to this Order; *provided, however*, that in all other respects this Order shall remain in full force and effect unless otherwise ordered by the Court; and, *provided further*, that proceedings instituted under this provision would be in addition to, and not in lieu of, any other civil or criminal remedies as may be provided by law, including any other proceedings that the FTC may initiate to enforce this Order; and

C. For purposes of this Section V, Carl J. Shelton, Jr., Julie Shelton, and M. Edward Shelton Hypnotherapy, LLC, waive any right to contest any of the allegations in the First Amended Complaint.

#### **WITHHELD MAIL**

**VI. IT IS FURTHER ORDERED** that:

A. Within ten (10) days after the date of entry of this Order, Carl J. Shelton, Jr. shall direct all Commercial Mail Receiving Agencies ("CMRAs") where he has maintained an account relating to the subject matter of this Order, including 3540 W. Sahara Ave., #052, Las Vegas, NV 89102, to:

1. Close such account(s);
2. Mark any mail that is addressed to Carl J. Shelton, Jr. or to any name under which he has done business, "Return to Sender" or a similar designation;
3. Return the mail to the sender; and

B. Within ten (10) days after the date of entry of this Order, Carl J. Shelton, Jr. shall

provide to the FTC:

1. The names, if any, of the CMRAs instructed under subsection A of this Section;

and

2. All mail, including but not limited to, consumer correspondence, checks and negotiable instruments, and accompanying materials, such as order forms, related to the subject matter of this Order, that are in his possession.

### **RECORD KEEPING PROVISIONS**

**VII. IT IS FURTHER ORDERED** that, for a period of seven (7) years from the date of entry of this Order, Carl J. Shelton, Jr., in connection with any business where he is the majority owner or directly or indirectly controls the business and the business engages in, or assists others engaged in, the advertising, marketing, promotion, offering for sale, sale, or distribution of any work-at-home business opportunity, employment opportunity, business venture, or investment opportunity, and his agents, employees, officers, corporations, successors, and assigns, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from failing to create and retain the following records:

- A. Accounting records that reflect the cost of goods or services sold, revenues generated, and the disbursement of such revenues;
- B. Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by such business, including as an independent contractor; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;

C. 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 such information is obtained in the ordinary course of business;

D. Complaints and refund requests (whether received directly, indirectly or through any third party) and any responses to those complaints or requests;

E. Copies of all sales scripts, training materials, advertisements, or other marketing materials; and

F. All records and documents necessary to demonstrate full compliance with each provision of this Order, including but not limited to, copies of acknowledgments of receipt of this Order, required by Section X of this Order, and all reports submitted to the FTC pursuant to Section IX of this Order.

### **COMPLIANCE MONITORING**

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

A. Within ten (10) days of receipt of written notice from a representative of the FTC, Carl J. Shelton, Jr. shall submit additional written reports, sworn to 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 Carl J. Shelton, Jr.'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 the following:

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; and

2. Posing as consumers and suppliers to: Carl J. Shelton, Jr., his employees, or any other entity managed or controlled in whole or in part by Carl J. Shelton, Jr., without the necessity of identification or prior notice; and

C. Carl J. Shelton, Jr. 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.

*Provided, however,* 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)).

#### **COMPLIANCE REPORTING BY DEFENDANT**

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

A. For a period of four (4) years from the date of entry of this Order, Carl J. Shelton, Jr. shall notify the FTC of the following:

1. Any changes in his residence, mailing addresses, and telephone numbers, within ten (10) days of the date of such change;

2. Any changes in his employment status (including self-employment), and any change in Carl J. Shelton, Jr.'s ownership in any business entity, within ten (10) days of the date

of such change. Such notice shall include the name and address of each business that he is affiliated with, employed by, creates or forms, or performs services for; a statement of the nature of the business; and a statement of his duties and responsibilities in connection with the business or employment;

3. Any changes in his name or use of any aliases or fictitious names; and

4. Carl J. Shelton, Jr. shall notify the Commission of any changes in any business entity that he directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under this Order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor entity; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; the filing of a bankruptcy petition; or a change in the name or address of the business entity at least thirty (30) days prior to such change, *provided* that, with respect to any proposed change in the business entity about which Carl J. Shelton, Jr. learns less than thirty (30) days prior to the date such action is to take place, he shall notify the FTC as soon as is practicable after obtaining such knowledge;

B. One hundred eighty (180) days after the date of entry of this Order, Carl J. Shelton, Jr. shall provide a written report to the FTC, sworn to under penalty of perjury, setting forth in detail the manner and form in which he has complied and is complying with this Order. This report shall include, but not be limited to:

1. His then-current residence address, mailing addresses, and telephone numbers;

2. His then-current employment and business addresses and telephone numbers, a description of the business activities of each such employer or business, and his title and responsibilities, for each such employer or business;

3. A copy of each acknowledgment of receipt of this Order, obtained pursuant to Section X; and

4. Any other changes required to be reported under subsection A of this Section;

C. For the purposes of this Order, Carl J. Shelton, Jr. shall, unless otherwise directed by the FTC's authorized representatives, mail all written notifications to the FTC to:

Associate Director for Enforcement  
Federal Trade Commission  
600 Pennsylvania Avenue, NW, Room NJ-2122  
Washington, DC 20580  
Re: FTC v. Shelton, et al., Civil Action No. 05 C 6485 (N.D. Ill.); and

D. For purposes of the compliance reporting and monitoring required by this Order, the FTC is authorized to communicate directly with Carl J. Shelton, Jr.

#### **DISTRIBUTION OF ORDER**

**X. IT IS FURTHER ORDERED** that, for a period of four (4) years from the date of entry of this Order, Carl J. Shelton, Jr. shall deliver copies of the Order as directed below:

A. For any business that Carl J. Shelton, Jr. controls, directly or indirectly, or in which Carl J. Shelton, Jr. has a majority ownership interest, Carl J. Shelton, Jr. must deliver a copy of this Order to all principals, officers, directors, and managers of that business. Carl J. Shelton, Jr. must also deliver copies of this Order to all employees, agents, and representatives of that



business who engage in conduct related to the subject matter of this Order. For current personnel, delivery shall be within five (5) days of service of this Order upon Carl J. Shelton, Jr. For new personnel, delivery shall occur prior to them assuming their responsibilities;

B. For any business where Carl J. Shelton, Jr. is not a controlling person of a business but otherwise engages in conduct related to the subject matter of this Order, Carl J. Shelton, Jr. must deliver a copy of the Order to all principals and managers of such business before engaging in such conduct; and

C. Carl J. Shelton, Jr. must secure a signed and dated statement acknowledging receipt of the Order, within thirty (30) days of delivery, from all persons receiving a copy of this Order pursuant to this Section X.

#### **ACKNOWLEDGMENT OF RECEIPT OF ORDER**

**XI. IT IS FURTHER ORDERED** that Carl J. Shelton, Jr., Marianne Shelton, Julie Shelton, and M. Edward Shelton Hypnotherapy, LLC, within five (5) business days of receipt of this Order as entered by the Court, must submit to the FTC a truthful sworn statement acknowledging receipt of this Order.

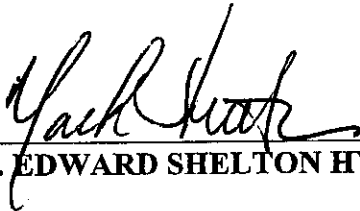
**RETENTION OF JURISDICTION**

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

**SO STIPULATED:**

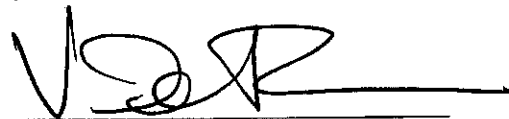
\_\_\_\_\_  
**CARL J. SHELTON, JR.**

\_\_\_\_\_  
**MARIANNE SHELTON**



\_\_\_\_\_  
**M. EDWARD SHELTON HYPNOTHERAPY, LLC**

\_\_\_\_\_  
**JULIE SHELTON**



\_\_\_\_\_  
**VICTOR F. DeFRANCIS**

**YAA APORI**

Federal Trade Commission

600 Pennsylvania Avenue, N.W.

Washington, DC 20580

Attorneys for Plaintiff

**IT IS SO ORDERED**, this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

\_\_\_\_\_  
**WAYNE R. ANDERSEN**

**United States District Judge**

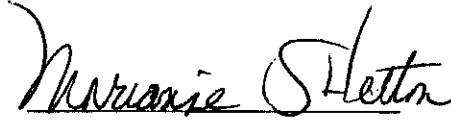
**RETENTION OF JURISDICTION**

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

**SO STIPULATED:**



**CARL J. SHELTON, JR.**



**MARIANNE SHELTON**

**M. EDWARD SHELTON HYPNOTHERAPY, LLC**

**JULIE SHELTON**

**VICTOR F. DeFRANCIS**

**YAA APORI**

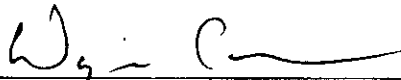
Federal Trade Commission

600 Pennsylvania Avenue, N.W.

Washington, DC 20580

Attorneys for Plaintiff

**IT IS SO ORDERED**, this 17<sup>th</sup> day of September, 2007.



**WAYNE R. ANDERSEN**

**United States District Judge**