

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

ODYSSEUS MARKETING, INC.,
and WALTER RINES,

Defendants.

Case No. 05-CV-330-SM

**PLAINTIFF'S MOTION FOR AN ORDER HOLDING
WALTER RINES, ONLINE TURBO MERCHANT, INC., AND
SANFORD WALLACE IN CIVIL CONTEMPT FOR THEIR
VIOLATIONS OF THIS COURT'S PERMANENT INJUNCTION**

Plaintiff, the Federal Trade Commission ("FTC" or "Commission") respectfully moves for an order holding defendant Walter Rines ("Rines"), his firm, Online Turbo Merchant, Inc., and his business partner, Sanford Wallace ("Wallace") (collectively, "contempt defendants") in civil contempt for violating numerous provisions of the Stipulated Final Order for Permanent Injunction ("Permanent Injunction" or "Order") entered by this Court on October 24, 2006.¹

The FTC originally brought this case in 2005 to halt defendant Rines' deceptive or unfair online advertising practices. The parties agreed to resolve the case by stipulating to the Court's

¹ Cognizant of LR 7.1(c), the FTC wishes to certify that it has not attempted to obtain the contempt defendants' concurrence in this motion for two reasons: First, this motion is dispositive, for a ruling on its merit will conclude contempt proceedings. Second, providing the contempt defendants with advance notice of this motion likely would prompt one person, contempt defendant Wallace, to evade service of the motion. Wallace is not presently known to be represented by counsel and the FTC encountered significant difficulty in serving Wallace with papers and obtaining his compliance with a subpoena relating to another case filed in this district. *See, e.g.,* Order, *FTC v. Seismic Entm't Prods., Inc.*, No. 2:07CV302RCJ-PAL (D. Nev. Apr. 3, 2007) (unpublished order attached hereto) (granting motion to compel subpoena issued in connection with *FTC v. Seismic Entm't Prods., Inc.*, Civ. No. 04-377-JD (D.N.H.)).

Permanent Injunction. Shortly after the Court entered its Order, however, Rines embarked upon a new online advertising scheme with contempt defendant Wallace, a marketer with a history of fraudulent online advertising practices who had notice of Rines' Order. Together, the contempt defendants implemented a scheme to redirect Internet users from the popular social networking website MySpace.com ("MySpace") to websites owned or affiliated with the contempt defendants that subjected users to numerous online advertisements. In their scheme, the contempt defendants repeatedly violated specific provisions of this Court's Permanent Injunction by downloading computer code to MySpace users without their consent, "pagejacking" or redirecting those users to websites that barrage them with online advertisements, "mousetrapping" or hindering those users from departing those websites in order to subject them to more advertisements, and "phishing" for or otherwise capturing users' personal information without their consent. Moreover, defendant Rines also violated the Permanent Injunction by failing to procure a \$500,000 performance bond before participating in the display of online advertising. The contempt defendants enriched themselves from their scheme while their activities prompted hundreds of consumer complaints.

The grounds for this civil contempt motion are set forth fully in the accompanying memorandum, as well as the supporting exhibits thereto.² A proposed civil contempt order accompanies this filing.

² In connection with this contempt action, the FTC also intends to file a motion to modify and enhance the Permanent Injunction entered against defendant Rines, in view of his order violations, to help ensure that Rines does not engage in unlawful advertising practices in the future. The FTC will confer with defendant Rines' counsel prior to presenting that motion.

Respectfully submitted,

WILLIAM BLUMENTHAL
General Counsel

Date: January 23, 2008

/s/ Joshua S. Millard
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* Mr. Millard and Ms. Hann are attorneys employed by the U.S. Federal Trade Commission. They are in good standing as members of the bar in every jurisdiction in which they are admitted to practice and are not subject to pending disciplinary proceedings. Each is a member of the bar of a United States District Court and they appear in this matter consistent with LR 83.2(a).