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

16 FEDERAL TRADE COMMISSION,

17 Plaintiff,

18 v.

19 DEBT.COM MARKETING, LLC,
a limited liability company,

20 MEDIA CHOICE, LLC,
21 a limited liability company,
also d/b/a MediaChoice, LLC,

22 800 CREDIT CARD DEBT, LLC,
23 a limited liability company,
24 also d/b/a 800 Credit Crad [sic] Debt, LLC,
800CreditCardDebt.com,
and 800ccd.com, and

25 STEPHEN TODD COOK,
26 individually and as an officer
of Debt.com Marketing, LLC,
27 Media Choice, LLC,
and 800 Credit Card Debt, LLC,

28 Defendants.

Case No. SACV10-1788-DOC(RZx)

STIPULATED FINAL
JUDGMENT AND ORDER

1 Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), has filed a
2 Complaint for Permanent Injunction and Other Equitable Relief pursuant to Section 13(b) of the
3 Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §53(b), to obtain permanent injunctive
4 relief, rescission or reformation of contracts, restitution, the refund of monies paid, the
5 disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts or practices in
6 violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

7 The Complaint alleges that Defendants engaged in unfair or deceptive acts or practices in
8 advertising and marketing debt relief services in violation of Section 5(a) of the FTC Act, 15
9 U.S.C. § 45(a).

10 The parties, by and through their respective counsel, have agreed to entry of this
11 Stipulated Final Judgment and Order (“Order”) by this Court without trial or adjudication of any
12 issue of fact or law and without the Defendants admitting liability for any of the matters alleged
13 in the Complaint. Defendants waive any right that may arise under the Equal Access to Justice
14 Act, 28 U.S.C. § 2412, as amended by Pub. L. 104-121, 110 Stat. 847, 863-64 (1996), and any
15 claims they may have against the Commission, its employees, representatives, or agents.
16 Defendants have waived service of the Summons and Complaint.

17 The parties having requested the Court to enter this Order, it is therefore ORDERED,
18 ADJUDGED, AND DECREED as follows:

19 **FINDINGS**

- 20 1. This Court has jurisdiction over the subject matter and over the parties.
- 21 2. The Complaint states a claim upon which relief may be granted against
22 Defendants under Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a), 53(b).
- 23 3. Venue is proper in this District under 28 U.S.C. § 1391(b) and (c), and 15 U.S.C.
24 § 53(b).
- 25 4. The activities of Defendants are in or affecting commerce as “commerce” is
26 defined in Section 4 of the FTC Act, 15 U.S.C. § 44, as amended.
- 27 5. Defendants have read and fully understand the Complaint against them and the
28 provisions of this Order, and they freely enter into this Order.

1 D. **“Corporate Defendants”** means Debt.com Marketing, LLC; Media Choice, LLC
2 also d/b/a MediaChoice, LLC; and 800 Credit Card Debt, LLC also d/b/a 800
3 Credit Crad [sic] Debt, LLC, 800CreditCardDebt.com, and 800ccd.com; and each
4 of their successors and assigns.

5 E. **“Customer”** means any person who has paid, or may be required to pay, for
6 products, services, plans, or programs offered for sale or sold by the Defendants.

7 F. **“Debt relief service”** means any product, service, plan, or program represented,
8 expressly or by implication, to renegotiate, settle, or in any way alter the terms of
9 payment or other terms of the debt between a consumer and one or more
10 unsecured creditors or debt collectors, including, but not limited to, a reduction in
11 the balance, interest rate, or fees owed by a consumer to an unsecured creditor or
12 debt collector.

13 G. **“Defendants”** means the Individual Defendant and the Corporate Defendants,
14 individually, collectively, or in any combination.

15 H. **“Distribution(s)”** means any direct or indirect transfer of money, securities, or
16 other property from the Investment Properties or either of them to, or for the
17 benefit of, the Individual Defendant.

18 I. **“Document”** is synonymous in meaning and equal in scope to the usage of the
19 term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings,
20 graphs, charts, photographs, audio and video recordings, computer records, and
21 other data compilations from which the information can be obtained and
22 translated, if necessary, through detection devices into reasonably usable form. A
23 draft or non-identical copy is a separate document within the meaning of the term.

24 J. **“Financial related product or service”** means any product, service, plan or
25 program represented, expressly or by implication, to:

- 26 1. provide any consumer, arrange for any consumer to receive, or assist any
27 consumer in receiving, credit, debit, or stored value cards;
- 28 2. improve, or arrange to improve, any consumer’s credit record, credit

- 1 history, or credit rating;
- 2 3. provide advice or assistance to any consumer with regard to any activity
- 3 or service the purpose of which is to improve a consumer's credit record,
- 4 credit history, or credit rating;
- 5 4. provide any consumer, arrange for any consumer to receive, or assist any
- 6 consumer in receiving, a loan or other extension of credit; or
- 7 5. provide any consumer, arrange for any consumer to receive, or assist any
- 8 consumer in receiving any service represented, expressly or by
- 9 implication, to renegotiate, settle, or in any way alter the terms of payment
- 10 or other terms of the debt between a consumer and one or more secured
- 11 creditors, servicers, or debt collectors.

12 K. **“Individual Defendant”** means Stephen Todd Cook.

13 L. **“Investment Properties”** means the Individual Defendant's:

- 14 1. 2% ownership interest in the Two Oceans Fund, L.P. investment fund; and
- 15 2. 2% ownership interest in the Two Oceans Fund II, L.P. investment fund.

16 M. **“Investment Property Net Proceeds”** means the total proceeds from the sale or
17 liquidation of the Investment Properties, individually or collectively, after
18 payment of any reasonable and customary fees incurred in connection with such
19 sale or liquidation that have been approved by counsel for the FTC, which
20 approval shall not be unreasonably withheld.

21 N. **“Person”** means a natural person, an organization, or other legal entity, including
22 a corporation, partnership, sole proprietorship, limited liability company,
23 association, cooperative, or any other group or combination acting as an entity.

24 O. **“Real Properties”** means:

- 25 1. the real property and dwelling house located at 38541 Shoal Creek Drive,
- 26 Murrieta, California;
- 27 2. the condominium located at 38707 Muirfield Drive, Murrieta, California;
- 28 and

1 3. the real properties located at Plots 32 and 33, Coakley Bay, East End “B,”
2 St. Croix, United States Virgin Islands (Public Works Drawing 4839);
3 together with any other structures, improvements, appurtenances, hereditaments,
4 and other rights appertaining or belonging thereto.

5 P. **“Real Property Net Proceeds”** means the total proceeds from the sale or auction
6 of the Real Properties, individually or collectively, after payment of obligations
7 due and owing to any and all valid mortgage holders and other priority lien
8 holders, any property taxes owed, any adjustments in favor of the buyer(s)
9 required to sell the Real Properties, and any reasonable and customary real estate
10 agent fees and closing costs incurred in connection with such sale or auction that
11 have been approved by counsel for the FTC, which approval shall not be
12 unreasonably withheld.

13 **BAN ON DEBT RELIEF SERVICES**

14 **I.**

15 IT IS THEREFORE ORDERED that Defendants, whether acting directly or through any
16 other person, are permanently restrained and enjoined from:

17 A. Advertising, marketing, promoting, offering for sale, or selling any debt relief
18 service; and

19 B. Assisting others engaged in advertising, marketing, promoting, offering for sale,
20 or selling any debt relief service.

21 **PROHIBITED MISREPRESENTATIONS RELATING TO FINANCIAL RELATED**

22 **PRODUCTS OR SERVICES**

23 **II.**

24 IT IS FURTHER ORDERED that Defendants and their officers, agents, servants,
25 employees, and attorneys, and those persons or entities in active concert or participation with
26 any of them who receive actual notice of this Order by personal service, facsimile transmission,
27 email, or otherwise, whether acting directly or through any corporation, subsidiary, division, or
28 other device, in connection with the advertising, marketing, promotion, offering for sale, or sale

1 of any financial related product or service, are hereby permanently restrained and enjoined from
2 misrepresenting or assisting others in misrepresenting, expressly or by implication, any material
3 fact, including but not limited to:

- 4 A. The terms or rates that are available for any loan or other extension of credit;
- 5 B. Any person's ability to improve or otherwise affect a consumer's credit record,
6 credit history, credit rating, or ability to obtain credit;
- 7 C. That any person can obtain a modification of any secured loan or mortgage or
8 postpone or cancel the foreclosure of any property by renegotiating, settling, or in
9 any other way altering the terms of payment or other terms of such debt; or
- 10 D. That a consumer will receive legal representation.

11 **PROHIBITED MISREPRESENTATIONS RELATING TO ANY**
12 **PRODUCTS OR SERVICES**

13 **III.**

14 IT IS FURTHER ORDERED that Defendants and their officers, agents, servants,
15 employees, and attorneys, and those persons or entities in active concert or participation with
16 any of them who receive actual notice of this Order by personal service, facsimile transmission,
17 email, or otherwise, whether acting directly or through any corporation, subsidiary, division, or
18 other device, in connection with the advertising, marketing, promotion, offering for sale, or sale
19 of any product, service, plan, or program are hereby permanently restrained and enjoined from
20 misrepresenting or assisting others in misrepresenting, expressly or by implication, any material
21 fact, including but not limited to:

- 22 A. Any material aspect of the nature or terms of any refund, cancellation, exchange,
23 or repurchase policy, including, but not limited to, the likelihood of a consumer
24 obtaining a full or partial refund, or the circumstances in which a full or partial
25 refund will be granted to the consumer;
- 26 B. That any person is affiliated with, endorsed or approved by, or otherwise
27 connected to any other person; government entity; public, non-profit, or other
28 non-commercial program; or any other program;

- 1 C. That they themselves provide the product, service, plan, or program;
- 2 D. That any person providing a testimonial has purchased, received, or used the
- 3 product, service, plan, or program;
- 4 E. That the experience represented in a testimonial of the product, service, plan, or
- 5 program represents the person's actual experience resulting from the use of the
- 6 product, service, plan, or program under the circumstances depicted in the
- 7 advertisement;
- 8 F. The total costs to purchase, receive, or use, or the quantity of, the product,
- 9 service, plan, or program;
- 10 G. Any material restriction, limitation, or condition on purchasing, receiving, or
- 11 using the product, service, plan, or program; or
- 12 H. Any material aspect of the performance, efficacy, nature, or characteristics of the
- 13 product, service, plan, or program.

14 **SUBSTANTIATION FOR BENEFIT, PERFORMANCE,**
15 **AND EFFICACY CLAIMS**

16 **IV.**

17 IT IS FURTHER ORDERED that Defendants and their officers, agents, servants,
18 employees, and attorneys, and those persons or entities in active concert or participation with
19 any of them who receive actual notice of this Order by personal service, facsimile transmission,
20 email, or otherwise, whether acting directly or through any corporation, subsidiary, division, or
21 other device, in connection with the advertising, marketing, promotion, offering for sale, or sale
22 of any financial related product or service are hereby permanently restrained and enjoined from
23 making any representation or assisting others in making any representation, expressly or by
24 implication, about the benefits, performance, or efficacy of any financial related product or
25 service, unless at the time such representation is made, Defendants possess and rely upon
26 competent and reliable evidence that substantiates that the representation is true.

27 **PROHIBITION ON DISCLOSING CUSTOMER INFORMATION**

28 **V.**

1 IT IS FURTHER ORDERED that Defendants and their officers, agents, servants,
2 employees, and attorneys, and those persons or entities in active concert or participation with
3 any of them who receive actual notice of this Order by personal service, facsimile transmission,
4 email, or otherwise, whether acting directly or through any corporation, subsidiary, division, or
5 other device, are permanently restrained and enjoined from:

- 6 A. Disclosing, using, or benefitting from customer information, including the name,
7 address, telephone number, email address, Social Security number, other
8 identifying information, or any data that enables access to a customer's account
9 (including a credit card, bank account, or other financial account), of any person
10 which any Defendant obtained prior to the date of entry of this Order in
11 connection with the marketing or promotion of debt relief services; and
- 12 B. Failing to dispose of such customer information in all forms in their possession,
13 custody, or control within thirty (30) days after the date of entry of this Order.
14 Disposal shall be by means that protect against unauthorized access to the
15 customer information, such as by burning, pulverizing, or shredding any papers,
16 and by erasing or destroying any electronic media, to ensure that the customer
17 information cannot practicably be read or reconstructed.

18 *Provided, however,* that customer information need not be disposed of, and may be disclosed, to
19 the extent requested by a government agency or required by a law, regulation, or court order.

20 **MONETARY JUDGMENT**

21 **VI.**

22 IT IS FURTHER ORDERED that a judgment for equitable monetary relief is hereby
23 entered jointly and severally against Defendants in the amount of TWENTY-EIGHT MILLION,
24 TWO HUNDRED TWENTY-TWO THOUSAND, ONE HUNDRED FIFTY-THREE
25 DOLLARS (\$28,222,153); *provided, however,* that this judgment shall be suspended, subject to
26 the provisions of Section VII, upon completion of the requirements of Sections VI.A through
27 VI.K:

- 28 A. Defendants shall, within ten (10) business days from the date of entry of this

1 Order, transfer all funds held in accounts in the name of, or controlled by, any
2 Corporate Defendant, including but not limited to accounts at Wells Fargo Bank,
3 N.A. with account numbers ending in 1765, 7617, and 6629 (the “Account
4 Funds”), to the Commission or its designated agent, or as otherwise provided in
5 Section VI.F of this Order.

6 B. Individual Defendant shall, within twelve (12) months from the date of entry of
7 this Order, sell the Investment Properties and, within twenty (20) business days of
8 the sale of the Investment Properties or either of them, transfer the Investment
9 Property Net Proceeds to the Commission or its designated agent, or as otherwise
10 provided in Section VI.F of this Order, pursuant to the following provisions:

- 11 1. Individual Defendant shall make all good faith efforts necessary to sell
12 promptly the Investment Properties for fair market value and shall comply
13 with all reasonable requests from counsel for the FTC related to the sale of
14 the Investment Properties, including, but not limited to, obtaining any
15 necessary assistance and approval from the general partner of the
16 Investment Properties, retaining a broker or other professional to market
17 the Investment Properties, signing contracts for the sale of the Investment
18 Properties, and signing all documents necessary or appropriate for the
19 transfer of the Investment Properties to a new buyer.
- 20 2. Any offers received by Individual Defendant to purchase the Investment
21 Properties or either of them shall be in writing and shall be approved by
22 counsel for the FTC prior to offer or acceptance by Individual Defendant,
23 which approval shall not be unreasonably withheld.
- 24 3. In the event of a Distribution, Individual Defendant shall, within twenty
25 (20) business days of receiving the Distribution, transfer the full amount
26 of the Distribution to the Commission or its designated agent, or as
27 otherwise provided in Section VI.F of this Order. In the event that the
28 Investment Properties, or either of them, are liquidated, Individual

1 Defendant shall, within twenty (20) business days of the liquidation,
2 transfer the Investment Property Net Proceeds to the Commission or its
3 designated agent, or as otherwise provided in Section VI.F of this Order.

4 4. Within twenty (20) business days of the sale or liquidation of the
5 Investment Properties or either of them, Defendants shall provide counsel
6 for the FTC with: (a) proof of such sale or liquidation, including the
7 amount paid for each investment; and (b) documentation showing all
8 Distributions received by Individual Defendant since the date of entry of
9 this Order.

10 C. Individual Defendant shall, within twelve (12) months from the date of entry of
11 this Order, sell the Real Properties and, within twenty (20) business days of the
12 sale of the Real Properties or any of them, transfer the Real Property Net Proceeds
13 to the Commission or its designated agent, or as otherwise provided in Section
14 VI.F of this Order, pursuant to the following provisions:

15 1. Individual Defendant shall make all good faith efforts necessary to sell
16 promptly the Real Properties for fair market value and shall comply with
17 all reasonable requests from counsel for the FTC related to the sale of the
18 Real Properties, including, but not limited to, signing listing contracts with
19 real estate agents, keeping the Real Properties in good repair, keeping the
20 Real Properties in a condition suitable for showing to prospective
21 purchasers, signing contracts for the sale of the Real Properties, and
22 signing all documents necessary or appropriate for the transfer of the Real
23 Properties to a new buyer.

24 2. For each of the Real Properties, Individual Defendant shall provide to
25 counsel for the FTC as soon as possible, and in any event not later than
26 one (1) week prior to the closing date for the sale of the property: (a) a
27 copy of the executed contract relating to the proposed sale; (b) written
28 notice of the closing date; (c) contact information for the closing agent,

1 including the name, address and telephone number of the individual
2 closing agent; and (d) a copy of the Good Faith Estimate to be used in
3 connection with the closing.

4 3. For each of the Real Properties, Defendants shall provide to counsel for
5 the FTC, within two (2) days of closing, a copy of the final HUD-1
6 settlement statement or, if a HUD-1 settlement statement is not available,
7 any similar such documents relating to the consummation of the sale of
8 the property.

9 4. Within twenty (20) business days of the sale or auction of the Real
10 Properties or any of them, Individual Defendant shall provide counsel for
11 the FTC with: (a) proof of such transfer, including the amount paid for
12 each Real Property; (b) proof of payment of any applicable liens,
13 mortgages, or security interests; and (c) proof of payment of any
14 reasonable and customary brokerage fees, commissions, and closing costs.

15 5. In the event that the Real Properties or any of them have not sold within
16 twelve (12) months of the date of entry of this Order, Individual
17 Defendant shall undertake the necessary steps to auction the property,
18 including, but not limited to the following:

19 a. Individual Defendant shall retain an auction company and direct it
20 to sell all interests in the property at a public auction to occur
21 within fourteen (14) months from the date of entry of this Order;

22 b. Individual Defendant shall obtain from counsel for the FTC written
23 approval of the auction company and the terms that Individual
24 Defendant establishes for the auction, which approval shall not be
25 unreasonably withheld;

26 c. Within twenty (20) business days of the auction of the Real
27 Properties or any of them, Individual Defendant shall transfer the
28 Real Property Net Proceeds, if any, to the Commission or its

1 designated agent, or as otherwise provided in Section VI.F of this
2 Order; and

3 d. If the property remains unsold after auction, Individual Defendant
4 shall market and re-auction the property until sold.

5 6. Individual Defendant hereby releases and waives any statutory, common
6 law, or other homestead exemption that may apply to the Real Properties
7 or any of them, and shall not declare and claim any homestead exemption
8 in the Real Properties.

9 7. If a valid mortgage holder declares Individual Defendant in default of his
10 mortgage with respect to the Real Properties or any of them and
11 forecloses, upon providing counsel for the FTC with documented proof of
12 the foreclosure, Defendants shall be deemed in compliance with this
13 Section with respect to that property.

14 D. To secure performance of Defendants' obligations under Sections VI.B, VI.C, and
15 VI.F of this Order with regard to the Investment Properties and the real property
16 located at Plots 32 and 33, Coakley Bay, East End "B," St. Croix, United States
17 Virgin Islands (Public Works Drawing 4839) (the "Virgin Island Properties"):

18 1. Individual Defendant grants to the Commission a lien on and a security
19 interest in each of the Investment Properties and the Virgin Island
20 Properties, each of which shall terminate upon Individual Defendant's
21 transfer of all interests in each such property and remittance of any
22 resulting Investment Property Net Proceeds and Real Property Net
23 Proceeds to the Commission or its designated agent, or as otherwise
24 provided in Section VI.F of this Order. The Commission also shall
25 promptly release a lien or security interest to the extent necessary to
26 permit the sale of the Investment Properties, the Virgin Island Properties,
27 or any of them, provided that Defendants remit the Investment Property
28 Net Proceeds and Real Property Net Proceeds from the sale of the Virgin

1 Island Properties to the Commission or its designated agent, or as
2 otherwise provided in Section VI.F of this Order, upon closing of the sale.

3 2. Defendants shall cooperate fully with the Commission and be responsible
4 (at their expense) for preparing, executing, and recording the necessary
5 instruments and documents, obtaining any necessary approval from the
6 general partner of the Investment Properties, and doing whatever else the
7 Commission deems necessary or desirable to perfect, evidence, continue,
8 and terminate the liens and security interests granted herein. Defendants
9 also shall be responsible for paying all related fees and costs, including
10 attorneys' fees and filing fees.

11 3. Defendants shall deliver to the Commission copies of the instruments and
12 documents necessary to perfect the liens and security interests granted
13 herein, in form and substance satisfactory to the Commission, no later than
14 five (5) business days after the date on which the Commission authorizes
15 staff to sign this Order. Defendants shall record these documents and
16 provide counsel for the FTC with proof thereof within ten (10) business
17 days of the date of entry of this Order.

18 E. Individual Defendant represents and acknowledges that the Commission is relying
19 on the material representations that he is the sole owner of the Investment
20 Properties and Real Properties; that title to each of the Investment Properties and
21 Real Properties is marketable; and that none of the Investment Properties or Real
22 Properties is encumbered by any lien, mortgage, deed of trust, assignment,
23 pledge, security interest, or other interest except for the liens, mortgages, or
24 security interests identified in Defendants' sworn financial statements and the
25 sworn addendum thereto, submitted by Defendants to the Commission on July 26,
26 2010 and August 19, 2010, respectively.

27 F. Defendants shall transfer the Account Funds, Investment Property Net Proceeds,
28 Distributions, and Real Property Net Proceeds, if any, pursuant to the time

1 periods provided in this Section to:

- 2 1. The Commission or its designated agent by wire transfer in accordance
3 with wiring instructions to be provided by counsel for the FTC; or
- 4 2. The Internal Revenue Service (“IRS”), the state of California, or the state
5 of New York (collectively, the “Tax Authorities”) in full or partial
6 satisfaction of Individual Defendant’s 2007, 2008, and 2009 income tax
7 obligations, or Robb Evans & Associates LLC, the receiver in *FTC v.*
8 *AmeriDebt, Inc., et al.* (Civil Action No. PJM 03-3317) (the “*AmeriDebt*
9 *Receiver*”), in full or partial satisfaction of the funds Corporate Defendant
10 *Media Choice, LLC* and Individual Defendant owe to the *AmeriDebt*
11 *Receiver* pursuant to their June 18, 2007 Settlement Agreement.
12 *Provided, however,* that within ten (10) business days of making each such
13 payment, Defendants must provide counsel for the FTC documented proof
14 of the payment, which proof must demonstrate that the Account Funds,
15 Investment Property Net Proceeds, Distributions, or Real Property Net
16 Proceeds have been remitted to the Tax Authorities or the *AmeriDebt*
17 *Receiver* in satisfaction of the obligations described in this Section VI.F.2,
18 and shall include, but not be limited to, receipts, tax fulfillment letters, and
19 other such documents showing the dates and amounts of the payments.
- 20 3. Individual Defendant agrees that he will not, whether acting directly or
21 through any corporation, partnership, limited liability company, division,
22 subsidiary, trade name, or other entity or device, submit to any federal or
23 state tax authority any tax return, amended tax return, or other official
24 document that seeks a tax refund, tax credit, or any other tax benefit for
25 any of the payments that are enumerated in this Section. Individual
26 Defendant shall deliver to counsel for the FTC copies of all of his signed
27 and completed federal and state income tax returns for tax year 2009,
28 including all related forms, schedules, statements, and attachments, within

1 ten (10) business days after each such return is officially filed. Individual
2 Defendant also shall deliver to counsel for the FTC copies of any amended
3 federal and state income tax returns, including all related forms,
4 schedules, statements, and attachments, that he files for each tax year for
5 which payments enumerated in this Section are made to the Tax
6 Authorities within ten (10) business days after each such amended return
7 is officially filed. Individual Defendant shall, within thirty (30) days after
8 his final date permitted by the IRS for filing an amended federal tax return
9 for that tax year, sign and submit to the IRS an IRS Form 4506, along with
10 a payment to the IRS of the Form 4506 fee, directing the IRS to send to
11 counsel for the FTC a copy of his original and amended tax returns that he
12 filed with the IRS for that tax year.

13 4. If Defendants fail to transfer the Account Funds, Investment Property Net
14 Proceeds, Distributions, or Real Property Net Proceeds in accordance with
15 this Section, then judgment in the amount of TWENTY-EIGHT
16 MILLION, TWO HUNDRED TWENTY-TWO THOUSAND, ONE
17 HUNDRED FIFTY-THREE DOLLARS (\$28,222,153) shall be entered
18 and will become immediately due and payable, less any amounts already
19 paid. *Provided, however,* that Defendants shall have a fourteen (14) day
20 period in which to cure their default.

21 G. All funds received by the Commission pursuant to this Order shall be deposited
22 into a fund administered by the Commission or its agent to be used for equitable
23 relief, including, but not limited to, restitution and any attendant expenses for the
24 administration of such equitable relief. In the event that direct restitution to
25 consumers is wholly or partially impracticable or funds remain after restitution is
26 completed, the Commission may apply any remaining funds for such other
27 equitable relief (including consumer information remedies) as it determines to be
28 reasonably related to Defendants' practices alleged in the Complaint. Any funds

1 not used for such equitable relief shall be deposited to the U.S. Treasury as
2 disgorgement. Defendants shall have no right to challenge the Commission's
3 choice of remedies under this Section, and shall have no right to contest the
4 manner of distribution chosen by the Commission. This judgment for equitable
5 monetary relief is solely remedial in nature and is not a fine, penalty, punitive
6 assessment, or forfeiture.

7 H. In the event of any default on Defendants' obligation to make payment under this
8 Section, interest, computed pursuant to 28 U.S.C. § 1961, as amended, shall
9 accrue from the date of default to the date of payment, and shall immediately
10 become due and payable.

11 I. Defendants relinquish all dominion, control, and title to the funds paid to the
12 fullest extent permitted by law. Defendants shall make no claim to or demand
13 return of the funds, directly or indirectly, through counsel or otherwise.

14 J. Defendants agree that the facts as alleged in the Complaint filed in this action
15 shall be taken as true without further proof in any bankruptcy case or subsequent
16 civil litigation pursued by the Commission to enforce its rights to any payment or
17 money judgment pursuant to this Order, including but not limited to a
18 nondischargeability complaint in any bankruptcy case. Defendants further
19 stipulate and agree that the facts alleged in the Complaint establish all elements
20 necessary to sustain an action by the Commission pursuant to Section
21 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and that this
22 Order shall have collateral estoppel effect for such purposes.

23 K. In accordance with 31 U.S.C. § 7701, Defendants are hereby required, unless they
24 already have done so, to furnish to the Commission taxpayer identifying numbers,
25 which shall be used for purposes of collecting and reporting on any delinquent
26 amount arising out of their relationship with the government.

27 **RIGHT TO REOPEN**

28 **VII.**

1 IT IS FURTHER ORDERED that:

2 A. The FTC's agreement to this Order, requiring that the judgment be suspended for
3 less than the full amount of the judgment, is expressly premised upon the
4 truthfulness, accuracy and completeness of Defendants' financial condition, as
5 represented in Defendants' sworn financial statements and the sworn addendum
6 thereto, submitted by the Defendants to the Commission on July 26, 2010 and
7 August 19, 2010, respectively, along with Defendants' supporting financial
8 documents (collectively, "Financial Statements"), and compliance with Section
9 VI of this Order. The Financial Statements contain material information upon
10 which the FTC relied in negotiating and agreeing to this Order. If, upon motion
11 by the FTC, this Court finds that Defendants failed to disclose any material asset
12 or materially misstated the value of any asset in the Financial Statements, made
13 any other material misstatement or omission in the Financial Statements, or
14 violated Section VI of this Order in any material respect, the Court shall enter
15 judgment in the amount of TWENTY-EIGHT MILLION, TWO HUNDRED
16 TWENTY-TWO THOUSAND, ONE HUNDRED FIFTY-THREE DOLLARS
17 (\$28,222,153) in equitable monetary relief against Defendants, plus interest
18 computed at the rate prescribed in 28 U.S.C. § 1961(a) which shall immediately
19 begin to accrue, less any amounts previously paid by Defendants to the
20 Commission. ***Provided, however, that:***

- 21 1. In all other respects this Order shall remain in full force and effect unless
22 otherwise ordered by the Court; and
- 23 2. Proceedings instituted under this Section would be in addition to, and not
24 in lieu of, any other civil or criminal remedies as may be provided by law,
25 including any other proceedings that the FTC may initiate to enforce this
26 Order.

27 B. Each party shall bear its own costs and attorneys' fees incurred in connection with
28 any action brought pursuant to Section VII.

COMPLIANCE MONITORING

VIII.

IT IS FURTHER ORDERED that, for the purpose of (i) monitoring and investigating compliance with any provision of this Order, and (ii) investigating the accuracy of any Defendants' financial statements upon which the Commission's agreement to this Order is expressly premised:

- A. Within ten (10) days of receipt of written notice from a representative of the Commission, Defendants each shall submit additional written reports, which are true and accurate and sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and provide entry during normal business hours to any business location in each Defendant's possession or direct or indirect control to inspect the business operation;
- B. In addition, the Commission is authorized to use all other lawful means, including but not limited to:
 - 1. obtaining discovery from any person, without further leave of court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, 45, and 69;
 - 2. having its representatives pose as consumers and suppliers to Defendants, their employees, or any other entity managed or controlled in whole or in part by any Defendant, without the necessity of identification or prior notice; and
- C. Defendants each shall permit representatives of the Commission 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 Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to

1 obtain any documentary material, tangible things, testimony, or information relevant to unfair or
2 deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C.
3 § 45(a)(1)).

4 **COMPLIANCE REPORTING**

5 **IX.**

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

8 A. For a period of five (5) years from the date of entry of this Order,

- 9
- 10 1. Each Individual Defendant shall notify the Commission of the following:
- 11 a. any changes in such Defendant's residence, mailing addresses, and
- 12 telephone numbers, within ten (10) days of the date of such
- 13 change;
- 14 b. any changes in such Defendant's employment status (including
- 15 self-employment), and any change in such Defendant's ownership
- 16 in any business entity, within ten (10) days of the date of such
- 17 change. Such notice shall include the name and address of each
- 18 business that such Defendant is affiliated with, employed by,
- 19 creates or forms, or performs services for; a detailed description of
- 20 the nature of the business; and a detailed description of such
- 21 Defendant's duties and responsibilities in connection with the
- 22 business or employment; and
- 23 c. any changes in such Defendant's name or use of any aliases or
- 24 fictitious names within ten (10) days of the date of such change.
- 25
- 26 2. Defendants shall notify the Commission of any changes in structure of any
- 27 Corporate Defendant or any business entity that any Defendant directly or
- 28 indirectly controls, or has an ownership interest in, that may affect

1 compliance obligations arising under this Order, including but not limited
2 to: incorporation or other organization; a dissolution, assignment, sale,
3 merger, or other action; the creation or dissolution of a subsidiary, parent,
4 or affiliate that engages in any acts or practices subject to this Order; or a
5 change in the business name or address, at least thirty (30) days prior to
6 such change, *provided* that, with respect to any such change in the
7 business entity about which a Defendant learns less than thirty (30) days
8 prior to the date such action is to take place, such Defendant shall notify
9 the Commission as soon as is practicable after obtaining such knowledge.

10
11 B. One hundred eighty (180) days after the date of entry of this Order and annually
12 thereafter for a period of five (5) years, Defendants each shall provide a written
13 report to the Commission, which is true and accurate and sworn to under penalty
14 of perjury, setting forth in detail the manner and form in which they have
15 complied and are complying with this Order. This report shall include, but not be
16 limited to:

17 1. For each Individual Defendant:

- 18 a. such Defendant's then-current residence address, mailing
19 addresses, and telephone numbers;
- 20 b. such Defendant's then-current employment status (including self-
21 employment), including the name, addresses, and telephone
22 numbers of each business that such Defendant is affiliated with,
23 employed by, or performs services for; a detailed description of the
24 nature of the business; and a detailed description of such
25 Defendant's duties and responsibilities in connection with the
26 business or employment; and
- 27 c. any other changes required to be reported under Subsection A of
28

1 this Section.

2 2. For all Defendants:

- 3 a. a copy of each acknowledgment of receipt of this Order, obtained
- 4 pursuant to the Section titled "Distribution of Order;" and
- 5 b. any other changes required to be reported under Subsection A of
- 6 this Section.

7 C. Each Defendant shall notify the Commission of the filing of a bankruptcy petition
8 by such Defendant within fifteen (15) days of
9 filing.

10 D. For the purposes of this Order, Defendants shall, unless otherwise directed by the
11 Commission's authorized representatives, send by overnight courier (not the U.S.
12 Postal Service) all reports and notifications to the Commission required by this
13 Order to:

14 Associate Director for Enforcement
15 Bureau of Consumer Protection
16 Federal Trade Commission
17 600 Pennsylvania Avenue, N.W.
18 Washington, D.C. 20580

19 RE: *FTC v. Debt.com Marketing, LLC, et al.*

20
21 *Provided* that, in lieu of overnight courier, Defendants may send such reports or notifications by
22 first-class mail, but only if Defendants contemporaneously send an electronic version of such
23 report or notification to the Commission at: DEbrief@ftc.gov.

24 E. For purposes of the compliance reporting and monitoring required by this Order,
25 the Commission is authorized to communicate directly with each Defendant.

26 **RECORD KEEPING PROVISIONS**

27 X.

1 IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry of
2 this Order, Corporate Defendants, in connection with the advertising, marketing, promotion,
3 offering for sale, or sale of any financial related product or service, and Individual Defendants
4 for any business for which they, individually or collectively, are the majority owner or directly
5 or indirectly control, are hereby restrained and enjoined from failing to create and retain the
6 following records:

- 7 A. Accounting records that reflect the cost of products, services, plans, or programs
8 sold, revenues generated, and the disbursement of such revenues;
- 9 B. Personnel records accurately reflecting: the name, address, and telephone number
10 of each person employed in any capacity by such business, including as an
11 independent contractor; that person's job title or position; the date upon which the
12 person commenced work; and the date and reason for the person's termination, if
13 applicable;
- 14 C. Customer files containing the names, addresses, phone numbers, dollar amounts
15 paid, quantity of products, services, plans, or programs purchased, and description
16 of products, services, plans, or programs purchased, to the extent such
17 information is obtained in the ordinary course of business;
- 18 D. Complaints and refund requests (whether received directly, indirectly, or through
19 any third party) and any responses to those complaints or requests;
- 20 E. Copies of all sales scripts, training materials, advertisements, direct mail
21 solicitations, contracts sent to consumers, or other marketing materials; and
22
- 23 F. All records and documents necessary to demonstrate full compliance with each
24 provision of this Order, including but not limited to, copies of acknowledgments
25 of receipt of this Order required by the Sections titled "Distribution of Order" and
26 "Acknowledgment of Receipt of Order" and all reports submitted to the FTC
27 pursuant to the Section titled "Compliance Reporting."
28

DISTRIBUTION OF ORDER

XI.

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Order, Defendants must deliver copies of this Order as directed below:

- A. Corporate Defendant: Each Corporate Defendant must deliver a copy of this Order to (1) all of its principals, officers, directors, and managers; (2) all of its employees, agents, and representatives who engage in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled “Compliance Reporting.” For current personnel, delivery shall be within five (5) days of service of this Order upon such Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities. For any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled “Compliance Reporting,” delivery shall be at least ten (10) days prior to the change in structure.

- B. Individual Defendant as control person: For any business that an Individual Defendant controls, directly or indirectly, or in which such Defendant has a majority ownership interest, such Defendant must deliver a copy of this Order to (1) all principals, officers, directors, and managers of that business; (2) all employees, agents, and representatives of that business who engage in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled “Compliance Reporting.” For current personnel, delivery shall be within five (5) days of service of this Order upon such Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities. For any business entity resulting from any change in structure set forth in Subsection A.2 of the Section

1 titled "Compliance Reporting," delivery shall be at least ten (10) days prior to the
2 change in structure.

3 C. Individual Defendant as employee or non-control person: For any business where
4 an Individual Defendant is not a controlling person of a business but otherwise
5 engages in conduct related to the subject matter of this Order, such Defendant
6 must deliver a copy of this Order to all principals and managers of such business
7 before engaging in such conduct.

8 D. Defendants must secure a signed and dated statement acknowledging receipt of
9 the Order, within thirty (30) days of delivery, from all persons receiving a copy of
10 the Order pursuant to this Section.
11

12
13 **ACKNOWLEDGMENT OF RECEIPT OF ORDER**

14 **XII.**

15 IT IS FURTHER ORDERED that each Defendant, within five (5) business days of
16 receipt of this Order as entered by the Court, must submit to the Commission a truthful sworn
17 statement acknowledging receipt of this Order.

18 **RETENTION OF JURISDICTION**

19 **XIII.**

20 IT IS FURTHER ORDERED that this Court shall retain jurisdiction of
21 this matter for purposes of construction, modification, and enforcement of this Order.
22

23 IT IS SO ORDERED.

24
25 DATED this 23 day of November, 2010.
26

27
28 *David O. Carter*
UNITED STATES DISTRICT JUDGE