

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

_____)	
FEDERAL TRADE COMMISSION,)	
)	
)	Case No. 4:96CV02225 SNLJ
Plaintiff,)	
v.)	
)	Judge Limbaugh
RICHARD C. NEISWONGER, et al.,)	
)	
Defendants.)	
_____)	

**STIPULATED ORDER CONTAINING
SETTLEMENT AGREEMENT AND RELEASE**

This Stipulated Order constitutes and effectuates a Settlement Agreement and Release (“Agreement”) by and between Richard C. Neiswonger and Shannon Neiswonger (collectively sometimes referred to as the “Neiswongers”), the Federal Trade Commission (“FTC”), and Robb Evans as Receiver (“Receiver”) of Asset Protection Group, Inc. and its subsidiaries, affiliates, divisions, successors and assigns (“Receivership Defendants”), in reference to and in consideration of the following.

Upon stipulation of the parties, the Court hereby finds as follows:

FINDINGS

A. The FTC originally brought an action against Richard C. Neiswonger (“Richard Neiswonger”) in the United States District Court for the Eastern District of Missouri, Eastern Division, Case No. 4:96cv02225 SNL (“FTC Action”). Richard Neiswonger entered into a Stipulated Final Judgment and Order for Permanent Injunction and Other Equitable Relief in the FTC Action.

B. Thereafter, in July 2006, the FTC initiated contempt proceedings *ex parte* against Richard Neiswonger, William S. Reed (“Reed”), and Asset Protection Group, Inc. (“APGI”), alleging that, in violation of the Permanent Injunction, Richard Neiswonger joined APGI and, acting in concert with contempt defendants Reed and APGI, promoted a deceptive scheme.

C. The Court issued an *Ex Parte* Temporary Restraining Order With Ancillary Equitable Relief providing for an asset freeze, the appointment of Robb Evans as temporary receiver over the Receivership Defendants, and other relief on July 17, 2006. This Order remained in force pursuant to a July 25, 2006 stipulation between the parties.

D. On June 12, 2007, the Court issued a Preliminary Injunction and related orders. Pursuant to the Preliminary Injunction, the Receiver was appointed as permanent receiver over APGI.

E. On July 31, 2008, the Court entered the Amended Civil Contempt Order as to Contempt Defendants Richard C. Neiswonger, Reed and APGI (“Amended Civil Contempt Order”), which required Richard Neiswonger and Reed to pay contempt judgments or else turn over to the Receiver various real and personal properties and to provide accountings of their assets. The contempt judgments were not paid. One of the properties ordered to be turned over was the Neiswongers’ residence located at 9509 Verlaine Court, Las Vegas, Nevada (“Verlaine Court Property”). The Amended Civil Contempt Order was appealed by Richard Neiswonger but was not stayed pending appeal and was subsequently affirmed by the Court of Appeals for the Eighth Circuit in a published opinion, *Federal Trade Commission v. Neiswonger*, 580 F.3d 769 (8th Cir. 2009).

F. On September 19, 2008, the FTC filed a motion to have Richard Neiswonger held in contempt and incarcerated in order to coerce his compliance with the Amended Civil Contempt Order. On September 15, 2009, the Court entered its Memorandum and Order requiring the Neiswongers to comply with the Amended Civil Contempt Order and deliver executed title and reconveyance documents pertaining to the Verlaine Court Property as required by the Receiver to facilitate the transfer of marketable title (“September 15, 2009 Order”).

G. Shannon Neiswonger executed and delivered the title and reconveyance documents that were requested by the Receiver. During October 2009, the Receiver took steps to have the title documents pertaining to the Verlaine Court Property recorded and title to the property was thereafter vested in APG Inc., QSF.

H. On August 12, 2009, Shannon Neiswonger filed a lawsuit in a Clark County, Nevada state court against the FTC and the Receiver, Case No. A-09-597078-C (“Neiswonger Action”), challenging the Amended Civil Contempt Order and asserting various claims to the Verlaine Court Property and various claims against the FTC and the Receiver, including claims for declaratory relief and conversion of property. Thereafter, on October 29, 2009, Shannon Neiswonger filed an amended complaint in the Neiswonger Action. The amended complaint in the Neiswonger Action asserted various claims against the FTC and the Receiver, including claims for declaratory relief, conversion of property, constructive trust, equitable accounting, and injunctive relief. In conjunction with the filing of her amended complaint in the Neiswonger Action, on December 3, 2009 Shannon Neiswonger also caused to be recorded a Notice of Pendency of Action against the Verlaine Court Property as Instrument No. 02394.

I. The FTC removed the Neiswonger Action to the Federal District Court in Nevada on November 30, 2009 (“Removed Neiswonger Action”), and the Removed Neiswonger Action has been assigned Case No. 2:09-cv-02771 GMN-PAL in the United States District Court for the District of Nevada (“Nevada Federal Court”). The FTC also filed a motion to transfer venue of the Removed Neiswonger Action, seeking to transfer venue to the United States District Court, Eastern District of Missouri. The Receiver joined in the FTC’s motion to transfer venue, and Shannon Neiswonger opposed the motion to transfer venue. On July 26, 2010, the Nevada Federal Court entered an order dismissing the Removed Neiswonger Action for lack of subject matter jurisdiction, and on September 21, 2010, Shannon Neiswonger filed a notice of appeal of the order of dismissal of the Removed Neiswonger Action. The order of dismissal of the Removed Neiswonger Action has not been stayed pending appeal.

J. Richard Neiswonger appealed the September 15, 2009 Order, which appeal is pending. The September 15, 2009 Order has not been stayed pending such appeal.

K. The FTC and the Receiver allege that, at all times, the Neiswongers have remained in possession and control of the Verlaine Court Property. As a result of a dispute over possession and control of the Verlaine Court Property, the Neiswonger Action and the Notice of Pendency of Action, the Receiver has been unable to market the Verlaine Court Property.

L. On August 26, 2010, the Receiver filed a motion for supplemental orders for possession of the Verlaine Court Property in the FTC Action.

M. The parties hereto now desire to resolve their disputes and differences concerning the Verlaine Court Property and any other property to be turned over to the Receiver by Richard

Neiswonger pursuant to the terms of the Amended Civil Contempt Order subject to the terms and conditions in this Agreement set forth herein.

N. As part of this Agreement, the Neiswongers, and each of them, hereby release, relinquish, waive and disclaim all right, title, interest and claims that either or both of them may have, if any, in and to the Verlaine Court Property, and in and to any and all other real and personal property to be turned over to the Receiver pursuant to the terms of the Amended Civil Contempt Order. The Neiswongers, concurrently with the execution of this Agreement, executed and delivered to counsel for the FTC and the Receiver true, notarized declarations under penalty of perjury irrevocably disclaiming and relinquishing any right, title, interest and claims in and to the Verlaine Court Property and any and all other real and personal property to be turned over to the Receiver pursuant to the terms of the Amended Civil Contempt Order. The form and content of the declarations executed by the Neiswongers, and each of them, are attached collectively hereto as Exhibit 1 and incorporated herein by this reference.

O. Excepting only the obligations imposed or created by this Agreement, the Neiswongers, and each of them, do hereby forever relieve, release and discharge the Receiver, individually and as Receiver of the Receivership Defendants, the receivership estate established in the FTC Action, and the FTC, and each of them, and each of their respective predecessors, successors, and assigns, and their respective officers, directors, members, employees, agents, associates, partners, past or present attorneys, representatives and administrators, jointly and severally, from any and all lawsuits, debts, losses, claims, liens, liabilities, demands, obligations, promises, acts, agreements, costs, expenses, damages, actions and causes of action, of whatever kind or nature, whether known or unknown, suspected or unsuspected, contingent or fixed, that the Neiswongers, and each of them, had, have or may have against them, including but not

limited to those arising out of, related or pertaining to: (a) any of the Recitals herein; (b) the Verlaine Court Property; and (c) all other claims, demands, actions, losses, injuries, or damages the Neiswongers, and each of them, had, have or may have against the Receiver, individually and as Receiver of the Receivership Defendants, the receivership estate established in the FTC Action, the FTC, or any of them (collectively the "Neiswonger Claims").

P. Additionally, the Neiswongers, and each of them, expressly waive any and all rights under § 1542 of the Civil Code of the State of California, which provides as follows:

A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

The Neiswongers, and each of them, expressly waive and release any rights or benefits which they have or may have under § 1542 of the Civil Code of the State of California, and any similar statute, code, law or regulation of any state, territory, commonwealth or possession of the United States, or the United States, to the full extent that they may waive all such rights and benefits pertaining to the Neiswonger Claims. The Neiswongers, and each of them, acknowledge that they are aware that they may hereafter discover claims presently unknown or unsuspected, or facts in addition to or different from those which they now know or believe to be true pertaining to the Neiswonger Claims. Nevertheless, it is the intention of the Neiswongers, and each of them, through this Agreement to fully, finally and forever release all the Neiswonger Claims. The releases herein given shall be and remain in effect as a full and complete release of the Neiswonger Claims notwithstanding the discovery or existence of any such additional or different claims or facts relative thereto.

Q. As part of this Agreement, the Neiswongers, and each of them, represent and warrant that they are the sole and lawful owners of all right, title and interest in and to each of the Neiswonger Claims released herein and they have not heretofore assigned or transferred, or purported to assign or transfer to any individual, partnership, corporation, firm, estate or entity any of the Neiswonger Claims released herein. The Neiswongers, and each of them, hereby agree to indemnify, defend and hold harmless the Receiver, the Receivership Defendants' receivership estate, and the FTC from and against all claims based upon or arising out of or in connection with any assignment or transfer, or purported assignment or transfer, of any of the Neiswonger Claims.

R. This Agreement is made for the sole benefit and protection of the parties hereto. No other person shall have any right of action or right to rely thereon, and the parties hereto agree that nothing contained in this Agreement shall be construed to vest in any other person or entity, including but not limited to Reed, any of the Neiswongers' children, relatives, friends and/or acquaintances, any interest in or claim upon the rights and interests of the parties hereunder or in any proceeds thereof.

NOW THEREFORE, in consideration of the foregoing finding, which the parties stipulate are true and correct, and for good and valuable consideration the receipt and sufficiency of which are hereby acknowledged by each of the parties hereto, the parties do stipulate and agree to the following provisions. The parties having requested the Court to enter this Order, it is therefore ORDERED and DECREED as follows:

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ORDER

I. Turnover of Verlaine Court Property to the Receiver.

IT IS HEREBY ORDERED that within 14 days of the entry of this Order, the Neiswongers, and each of them, and each of their children, relatives, friends, acquaintances, tenants and/or boarders and all others occupying or in possession of the premises, shall vacate the Verlaine Court Property and turn over possession and control of the Verlaine Court Property to the Receiver so as to provide the Receiver sole and exclusive possession and control of the Verlaine Court Property. The Verlaine Court Property shall be turned over to the Receiver in excellent, well-maintained condition.

II. Marketing and Sale of Verlaine Court Property.

IT IS FURTHER ORDERED that, promptly upon obtaining possession and control of the Verlaine Court Property, the Receiver shall take steps to use his best efforts to market and sell the Verlaine Court Property and to obtain the best available price under market conditions then existing. The Receiver shall have full and sole management, control and decision-making authority over the listing and sale of the Verlaine Court Property in all respects in the exercise of the Receiver's sole and absolute opinion and judgment. The Receiver shall not be required to obtain the prior consent or authorization of the Neiswongers, or either of them, to the listing, marketing or sale of the Verlaine Court Property, and the Neiswongers, and each of them, shall have no right to object to any actions taken by the Receiver in regard to the Verlaine Court Property.

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III. Dismissal of Appeals and Withdrawal of Notices of Pending Action.

IT IS FURTHER ORDERED that the Neiswongers, and each of them, shall take any and all steps necessary or appropriate to cause any and all appeals currently pending with respect to the FTC Action and the Removed Neiswonger Action, including without limitation the pending appeal of the September 15, 2009 Order and the pending appeal of the order of dismissal in the Removed Neiswonger Action, to be dismissed with prejudice within three (3) days of the entry of this Order. The Neiswongers, and each of them, shall take any and all steps necessary or appropriate to cause any and all Notices of Pendency of Action recorded against the Verlaine Court Property by the Neiswongers, or either of them, including without limitation the Notice of Pendency of Action recorded as Instrument No. 02394, to be withdrawn within three (3) days of the entry of this Order.

IV. Payment to Shannon Neiswonger.

IT IS FURTHER ORDERED that, provided the Neiswongers comply with each and every term, condition and provision of this Agreement, upon the close of escrow for the sale of the Verlaine Court Property by or on behalf of the Receiver to a third party, Shannon Neiswonger shall be paid the sum of \$100,000 from the net proceeds of such sale, such payment to be made from escrow as follows: \$90,000 payable to Shannon Neiswonger, and \$10,000 payable to the Muije and Varricchio law firm retained by Shannon Neiswonger. Richard C. Neiswonger shall receive no money whatsoever as a result of such sale of the Verlaine Court Property.

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V. Wind-Up of Receivership Estate.

IT IS FURTHER ORDERED that, consistent with the Amended Civil Contempt Order, which provides for the completion of the receivership, and as soon as practicable after the sale of the Verlaine Court Property by or on behalf of the Receiver, the Receiver shall prepare a final report and accounting and file a motion in the FTC Action for approval of the final report and accounting, seeking, among other relief, an order closing the receivership estate and discharging the Receiver. Absent good cause shown, the Receiver shall file its final report and motion for approval no later than the present deadline for the filing of the final report, January 18, 2011.

VI. Amended Civil Contempt Order.

IT IS FURTHER ORDERED that the Amended Civil Contempt Order remains in full force and effect according to its terms except to the extent that its turnover provision applicable to the Verlaine Court Property is expressly satisfied by the Neiswongers' performance hereunder.

VII. Attorneys' Fees.

IT IS FURTHER ORDERED that, solely as to and between the Neiswongers and the Receiver, in the event of any default in payment or performance hereunder, if one of them employs an attorney to bring suit on account of such default or to otherwise enforce such payment or performance, the person or entity not in breach shall be entitled to be reimbursed for all attorneys' fees and costs incurred, including without limitation those incurred in each and every action, suit or proceeding, including any and all appeals and petitions therefrom.

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VIII. Successors and Assigns.


IT IS FURTHER ORDERED that the provisions of this Agreement shall be binding upon and inure to the benefit of each of the parties hereto, and their respective successors in interest and assigns.

IX. Retention of Jurisdiction and Venue.

IT IS FINALLY ORDERED that the Court shall retain jurisdiction of this matter for all purposes. All actions and proceedings relating directly or indirectly to this Agreement shall be litigated in the FTC Action in the United States District Court, Eastern District of Missouri, Eastern Division.

SO STIPULATED:

Date:


RICHARD C. NEISWONGER
Address: _____

Date:

Robert T. McAllister
Law Office of Robert T. McAllister, P.C.
5845 West Mansfield Avenue, Unit 259
Denver, CO 80235
E-mail: rtmcallister@comcast.net
Attorney for RICHARD C. NEISWONGER

[SIGNATURES CONTINUED ON NEXT PAGE]

VIII. Successors and Assigns.

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SO STIPULATED:

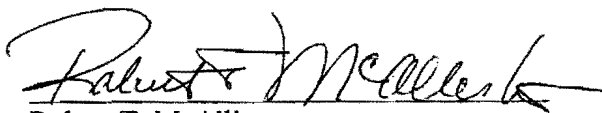
Date:

RICHARD C. NEISWONGER

Address: _____

Date:

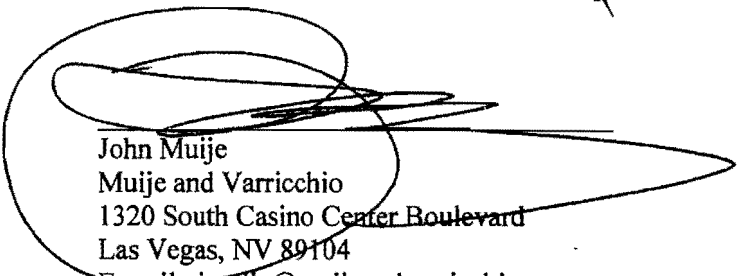
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E-mail: rtmcallister@comcast.net
Attorney for RICHARD C. NEISWONGER

[SIGNATURES CONTINUED ON NEXT PAGE]

Date: Shannon Neiswonger
SHANNON NEISWONGER
Address: _____

Date: 
John Muije
Muije and Varricchio
1320 South Casino Center Boulevard
Las Vegas, NV 89104
E-mail: jmuije@muijeandvarricchio.com
Attorney for SHANNON NEISWONGER

Date: _____
ROBB EVANS, as Receiver for ASSET
PROTECTION GROUP, INC. and its subsidiaries,
affiliates, divisions, successors and assigns
11450 Sheldon Street
Sun Valley, CA 91352-1121
Attn: Brick Kane
E-mail: brick_kane@robbevans.com

Date: _____
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ASSET PROTECTION GROUP, INC. and its
subsidiaries, affiliates, divisions, successors
and assigns.

[SIGNATURES CONTINUED ON NEXT PAGE]

Date:

SHANNON NEISWONGER

Address:

Date:

John Muije

Muije and Varricchio

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Las Vegas, NV 89104

E-mail: jmuije@muijeandvarricchio.com

Attorney for SHANNON NEISWONGER

Date:

ROBB EVANS, as Receiver for ASSET

PROTECTION GROUP, INC. and its subsidiaries,

affiliates, divisions, successors and assigns

11450 Sheldon Street

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Attn: Brick Kane

E-mail: brick_kane@robbevans.com

Date:

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Attorneys for ROBB EVANS, as Receiver for

ASSET PROTECTION GROUP, INC. and its

subsidiaries, affiliates, divisions, successors


and assigns.

[SIGNATURES CONTINUED ON NEXT PAGE]

Date: _____
SHANNON NEISWONGER
Address: _____


Date: _____
John Muije
Muije and Varricchio
1320 South Casino Center Boulevard
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E-mail: jmuije@muijeandvarricchio.com
Attorney for SHANNON NEISWONGER

Date: _____
ROBB EVANS, as Receiver for ASSET
PROTECTION GROUP, INC. and its subsidiaries,
affiliates, divisions, successors and assigns
11450 Sheldon Street
Sun Valley, CA 91352-1121
Attn: Brick Kane
E-mail: brick_kane@robbevans.com

Date: *October 21, 2010* _____

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subsidiaries, affiliates, divisions, successors
and assigns.

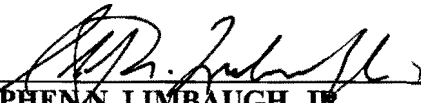
[SIGNATURES CONTINUED ON NEXT PAGE]

Date: January 12, 2011



Joshua E. Millard
Melinda A. Claybaugh
Federal Trade Commission
Division of Enforcement
Bureau of Consumer Protection
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Washington, D.C. 20580
E-mail: jmillard@ftc.gov/mclaybaugh@ftc.gov
Attorneys for FEDERAL TRADE COMMISSION

IT IS SO ORDERED this 8th day of February, 2010.



STEPHEN N. LIMBAUGH, JR.
UNITED STATES DISTRICT JUDGE
United States District Court for the
Eastern District of Missouri

DECLARATION OF RICHARD C. NEISWONGER

I, Richard C. Neiswonger, declare:

1. I am a defendant in the action entitled *Federal Trade Commission v. Richard C. Neiswonger, et al.*, United States District Court for the Eastern District of Missouri, Eastern Division, Case No. 4:96cv02225 SNLJ, formerly designated as Case No. 4:96cv02225 SNL (“FTC Action”).

2. I hereby release, relinquish, waive and disclaim any right, title, interest and claims in and to the real property commonly known as 9509 Verlaine Court, Las Vegas, Nevada and any and all other real and personal property to be turned over to Robb Evans as Receiver of Asset Protection Group, Inc. and its subsidiaries, affiliates, divisions, successors and assigns pursuant to the terms of the Amended Civil Contempt Order as to Contempt Defendants Richard C. Neiswonger, William S. Reed and Asset Protection Group, Inc. entered July 31, 2008 in the FTC Action.

I declare under penalty of perjury the foregoing is true and correct, and that this declaration was executed on OCT. 22, 2010 at ORLANDO, FL.


RICHARD C. NEISWONGER

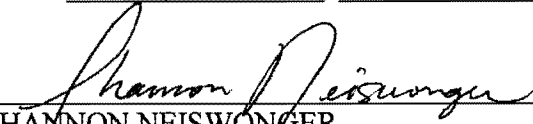
DECLARATION OF SHANNON NEISWONGER

I, Shannon Neiswonger, declare:

1. I am married to Richard C. Neiswonger, a defendant in the action entitled *Federal Trade Commission v. Richard C. Neiswonger, et al.*, United States District Court for the Eastern District of Missouri, Eastern Division, Case No. 4:96cv02225 SNLJ, formerly designated as Case No. 4:96cv02225 SNL (“FTC Action”).

2. I hereby release, relinquish, waive and disclaim any right, title, interest and claims in and to the real property commonly known as 9509 Verlaine Court, Las Vegas, Nevada and any and all other real and personal property to be turned over to Robb Evans as Receiver of Asset Protection Group, Inc. and its subsidiaries, affiliates, divisions, successors and assigns pursuant to the terms of the Amended Civil Contempt Order as to Contempt Defendants Richard C. Neiswonger, William S. Reed and Asset Protection Group, Inc. entered July 31, 2008 in the FTC Action.

I declare under penalty of perjury the foregoing is true and correct, and that this declaration was executed on OCT. 22, 2010 at ORLANDO, FL.



SHANNON NEISWONGER