

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 10-62000-CIV-ZLOCH

FEDERAL TRADE COMMISSION,

Plaintiff,

**STIPULATED FINAL JUDGMENT AND
PERMANENT INJUNCTION AS TO
DEFENDANTS PASQUALE PAPPALARDO
AND LISA TUMMINIA-PAPPALARDO**

vs.

TIMESHARE MEGA MEDIA AND
MARKETING GROUP, INC. et al.,

Defendants.

THIS MATTER is before the Court upon the Joint Motion Of Plaintiff Federal Trade Commission And Individual Defendants Pasquale Pappalardo And Lisa Tumminia-Pappalardo For Entry Of Stipulated Final Orders (DE 111) filed herein by all Parties, which the Court construes as a Joint Motion For Entry Of Consent Final Judgment. The Court has carefully reviewed said Joint Motion, the Stipulated Final Judgment And Order For Permanent Injunction As To Defendant Pasquale Pappalardo (DE 111-1), the Stipulated Final Order For Permanent Injunction As To Defendant Lisa Tumminia-Pappalardo (DE 111-2), the entire court file and is otherwise fully advised in the premises.

Accordingly, after due consideration, it is

ORDERED AND ADJUDGED as follows:

1. The Court has jurisdiction over the Parties hereto and the subject matter herein;
2. The Joint Motion Of Plaintiff Federal Trade Commission And

Individual Defendants Pasquale Pappalardo And Lisa Tumminia-Pappalardo For Entry Of Stipulated Final Orders (DE 111) filed herein by all Parties, which the Court construes as a Joint Motion For Entry Of Consent Final Judgment, be and the same is hereby **GRANTED**;

3. Pursuant to Federal Rule of Civil Procedure 58, final judgment be and the same is hereby **ENTERED** in favor of Plaintiff Federal Trade Commission and against Defendants Pasquale Pappalardo and Lisa Tumminia-Pappalardo;

4. The Stipulated Final Judgment And Order For Permanent Injunction As To Defendant Pasquale Pappalardo (DE 111-1) be and the same is hereby approved, adopted and ratified by the Court;

5. The Stipulated Final Order For Permanent Injunction As To Defendant Lisa Tumminia-Pappalardo (DE 111-2) be and the same is hereby approved, adopted and ratified by the Court; and

6. To the extent not otherwise disposed of herein, all pending motions as to Defendants Pasquale Pappalardo and Lisa Tumminia-Pappalardo are **DENIED** as moot.

DONE AND ORDERED in Chambers at Fort Lauderdale, Broward County, Florida, this 7th day of March, 2012.



WILLIAM J. ZLOCH
United States District Judge

Copies furnished:

All Counsel of Record

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 10-62000-CIV-ZLOCH

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

TIMESHARE MEGA MEDIA AND
MARKETING GROUP, INC., a Florida
corporation, also d/b/a Timeshare Market
Pro, Inc., *et al.*,

Defendants.

**STIPULATED FINAL JUDGMENT AND ORDER FOR PERMANENT
INJUNCTION AS TO DEFENDANT PASQUALE PAPPALARDO**

On October 19, 2010, Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), filed a Complaint for Permanent Injunction and Other Equitable Relief pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. § 6101-6108, to obtain temporary, preliminary, and permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FTC’s Trade Regulation Rule entitled “Telemarketing Sales Rule” (“TSR”), 16 C.F.R. Part 310.

Plaintiff and Defendant Pasquale Pappalardo (hereinafter referred to as “Stipulating Defendant”), by and through his attorney, have agreed to entry of this Stipulated Final Judgment

and Order for Permanent Injunction as to Defendant Pasquale Pappalardo (“Order”) by this Court in order to resolve all claims against Stipulating Defendant in this action. Plaintiff and Stipulating Defendant have consented to entry of this Order without trial or adjudication of any issue of law or fact herein.

NOW THEREFORE, Plaintiff and Stipulating Defendant, having requested the Court to enter this Order, and the Court having considered the Order reached between the parties, **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** as follows:

1. This is an action by the Commission instituted under Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, the Telemarketing Act, 15 U.S.C. §§ 6101-6108, and the TSR, 16 C.F.R. Part 310. Pursuant to these Sections of the FTC Act and the Telemarketing Act, the Commission has the authority to seek the relief contained herein.

2. The Complaint states a claim upon which relief may be granted under Sections 5(a), 13(b), and 19 of the FTC Act, 15 U.S.C. §§ 45(a), 53(b), and 57b, and Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b).

3. This Court has jurisdiction over the subject matter of this case and personal jurisdiction over the Stipulating Defendant.

4. Venue in the United States District Court for the Southern District of Florida is proper pursuant to 15 U.S.C. § 53(b) and 28 U.S.C. § 1391(b) and (c).

5. The alleged activities of Stipulating Defendant are “in or affecting commerce” as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

6. Stipulating Defendant, without admitting the allegations set forth in the Commission’s Complaint and without admission or finding of liability thereunder, agrees to entry of this Order.

7. Stipulating Defendant waives: (a) all rights to seek judicial review or otherwise challenge or contest the validity of this Order; (b) any claim that he may have against the Commission, its employees, representatives, or agents; (c) all claims under the Equal Access to Justice Act, 28 U.S.C. § 2412, *as amended by* Pub. L. 104-121, 110 Stat. 847, 863-64 (1996); and (d) any rights to attorney's fees that may arise under said provision of law. The Commission and Stipulating Defendant shall each bear their own costs and attorney's fees incurred in this action.

8. This Order is in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law.

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

DEFINITIONS

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

1. "Asset" or "Assets" means any legal or equitable interest in, right to, or claim to, any real or personal property, including, but not limited to, "goods," "instruments," "equipment," "fixtures," "general intangibles," "inventory," "checks," or "notes," (as these terms are defined in the Uniform Commercial Code), lines of credit, chattels, leaseholds, contracts, mail or other deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables, funds, and all cash, wherever located.

2. "Assisting Others" includes, but is not limited to: (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 sales script or other marketing material; (c) providing names of, or assisting in the generation of, potential

customers; (d) performing or providing marketing or billing services of any kind; or (e) acting as an officer or director of a business entity.

3. “**Corporate Defendants**” means Timeshare Mega Media and Marketing Group, Inc., also d/b/a Timeshare Market Pro, Inc.; Timeshare Market Pro, Inc.; and Tapia Consulting, Inc., and their successors and assigns, as well as any subsidiaries, and any fictitious business entities or business names created or used by these entities, or any of them.

4. “**Defendants**” means all of the Individual Defendants and the Corporate Defendants, individually, collectively, or in any combination.

5. “**Document**” or “**Documents**” means any materials listed in Federal Rule of Civil Procedure 34(a) and includes writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which information can be obtained and translated, if necessary, into reasonably usable form through detection devices. A draft or nonidentical copy is a separate Document within the meaning of the term.

6. “**Financial Institution**” means any bank, savings and loan institution, credit union, or any financial depository of any kind, including, but not limited to, any brokerage house, trustee, broker-dealer, escrow agent, title company, commodity trading company, or precious metal dealer.

7. “**Individual Defendants**” means Joseph Crapella, a/k/a Joseph John Philbin; Pasquale Pappalardo; Lisa Tumminia-Pappalardo; Pasqualino Agovino; Louis Tobias Duany; and Patricia A. Walker, and by whatever other names each may be known.

8. “**Material**” means likely to affect a person’s choice of, or conduct regarding, goods or services.

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

10. **“Plaintiff”** means the Federal Trade Commission (“FTC” or “Commission”).

11. **“Stipulating Defendant”** means Pasquale Pappalardo, and by whatever other names he may be known.

12. **“Telemarketing”** means any plan, program, or campaign (whether or not covered by the TSR, 16 C.F.R. Part 310) that is conducted to induce the purchase of goods or services or a charitable contribution by use of one or more telephones.

13. **“Timeshare”** means any right of ownership or occupancy in any vacation property or properties (including, but not limited to, condominiums, resorts, campgrounds, and cruise ships) that provides rights-holders with periodic usage or occupancy rights. The term shall include “points-based” programs that provide similar ownership or occupancy benefits.

14. **“Timeshare Resale Service”** means any good, service, plan or program represented, expressly or by implication, to assist an individual in advertising, marketing, promoting, offering for sale or rent, or selling or renting the individual’s timeshare.

ORDER

I.

PERMANENT BAN ON TELEMARKETING

IT IS THEREFORE ORDERED that Stipulating Defendant, whether acting directly or through any Person, business entity, trust, corporation, partnership, limited liability company, subsidiary, division, or other device, or any of them, is hereby permanently restrained and enjoined from Telemarketing, or Assisting Others engaged in Telemarketing.

II.

PERMANENT BAN ON TIMESHARE RESALE SERVICES

IT IS FURTHER ORDERED that Stipulating Defendant, whether acting directly or through any Person, business entity, trust, corporation, partnership, limited liability company, subsidiary, division, or other device, or any of them, is hereby permanently restrained and enjoined from engaging in, participating in, or Assisting Others in the advertising, marketing, promotion, offering for sale, or sale of any Timeshare Resale Service.

III.

PROHIBITED PRACTICES RELATING TO ANY GOODS OR SERVICES

IT IS FURTHER ORDERED that Stipulating Defendant, and his officers, agents, servants, employees, and attorneys, and all other Persons in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any Person, business entity, trust, corporation, partnership, limited liability company, subsidiary, division, or other device, or any of them, in connection with the advertising, marketing, promotion, offering for sale, or sale of any good or service, are hereby permanently restrained and enjoined from misrepresenting, or Assisting Others in misrepresenting, expressly or by implication, any material fact, including, but not limited to:

- A. The total cost to purchase, receive, or use the good or service;
- B. Any Material restriction, limitation, or condition to purchase, receive, or use the good or service;
- C. Any Material aspect of the nature or terms of a refund, cancellation, exchange, or repurchase policy for the good or service; and

D. Any Material aspect of the performance, efficacy, nature, or central characteristics of the good or service.

IV.

MONETARY JUDGMENT

IT IS FURTHER ORDERED that Judgment is hereby entered in favor of the Commission and against Stipulating Defendant for equitable monetary relief, including, but not limited to, consumer redress, in the amount of two-million, six-hundred ninety-two thousand, seven-hundred eighty-two Dollars and forty-six Cents (\$2,692,782.46), an estimate of the total amount of consumer injury caused by the activities alleged in the Commission's Complaint; *provided, however*, that the Judgment for equitable monetary relief shall be suspended upon the satisfaction of the obligations imposed by Subsection A of this Section, and subject to the conditions set forth in Section V of this Order.

A. Stipulating Defendant shall immediately take specific steps, as set forth below, to sell all interest in the property located at 2500 Coral Springs Drive, #115, Coral Springs, Florida 33065, Parcel ID 4841 20 AG 0140 ("2500 Coral Springs Drive"), listed on the Financial Statement of Individual Defendant Pasquale Pappalardo executed on November 20, 2010, and the Supplemental Financial Information of Defendant Pasquale Pappalardo dated January 13, 2011, that Stipulating Defendant provided to the FTC:

1. Stipulating Defendant shall sell 2500 Coral Springs Drive upon terms and conditions acceptable to the FTC. Stipulating Defendant shall promptly comply with all reasonable requests from the FTC related to that sale, including, but not limited to, signing listing contracts with real estate agents, keeping the property in good repair, keeping the property in a condition suitable for showing to prospective purchasers,

signing contracts for the sale of the property, and signing all documents necessary or appropriate for the transfer of the property to a new buyer(s);

2. If, after nine (9) months from the date of entry of this Order, all interests in 2500 Coral Springs Drive have not been sold, Stipulating Defendant shall immediately retain an auction company and direct it to sell all remaining interests in the property at a public auction, *provided that*, Stipulating Defendant first obtains from counsel for the FTC written approval of the auction company and of the terms that Stipulating Defendant establishes for the auction, which approval shall not be unreasonably withheld;

3. Stipulating Defendant shall be responsible for timely payment of all taxes, fees, association dues, and all other attendant expenses related to the maintenance and ownership of 2500 Coral Springs Drive until such time as the property is sold or auctioned. Stipulating Defendant further is required to continue and to maintain in full force insurance coverage on the property;

4. All net proceeds from the sale or auction of 2500 Coral Springs Drive after payment of obligations due and owing to any valid mortgage holders and other priority lien holders, any property taxes owed, any adjustments in favor of the buyer(s) required to sell the property, and any reasonable and customary real estate agent fees and closing costs incurred in connection with such sale or auction that have been approved by counsel for the FTC, which approval shall not be unreasonably withheld, shall be paid to the FTC within ten (10) days of the closing of the sale or auction of the property. Any sheriff, title company, or other person involved in such a sale or auction may rely on this Order as authority to deliver the net proceeds to the FTC;

5. To secure his performance under this Subsection A, Stipulating Defendant hereby grants to the Commission a lien on and security interest in 2500 Coral Springs Drive. Stipulating Defendant represents and acknowledges that the Commission is relying on the material representations that he is the sole owner of 2500 Coral Springs Drive; that title to 2500 Coral Springs Drive is marketable; and that 2500 Coral Springs Drive is not encumbered by any lien, mortgage, deed of trust, assignment, pledge, security interest, or other interest except for the lien, mortgage, or security interest identified in the Financial Statement of Individual Defendant Pasquale Pappalardo executed on November 20, 2010, and the Supplemental Financial Information of Defendant Pasquale Pappalardo dated January 13, 2011, including all attachments thereto;

6. Stipulating Defendant expressly agrees that 2500 Coral Springs Drive is not a homestead property; and

7. Stipulating Defendant shall cooperate fully with the Commission and be responsible for preparing, executing, and recording the necessary documents and doing whatever else the Commission deems necessary or desirable to perfect and evidence its lien on and security interest in 2500 Coral Springs Drive. Stipulating Defendant shall be responsible for paying all costs relating to the preparation, execution, delivery, filing, recording, and termination of the lien and security interest granted herein;

B. Time is of the essence for the payment specified above. In the event of any default by Stipulating Defendant on any obligation imposed under this Section:

1. The judgment imposed herein will not be suspended, and the full amount of that Judgment (\$2,692,782.46) shall immediately become due and payable, plus interest from the date of entry of this Order pursuant to 28 U.S.C. § 1961, as amended, less any amounts already paid; and

2. The Commission shall be entitled to immediately exercise any and all rights and remedies against Stipulating Defendant and his Assets to collect the full amount of the judgment and interest thereon, less any amounts already paid;

C. All funds paid pursuant to this Order shall be deposited into a fund administered by the Commission or its agent to be used for equitable relief, including, but not limited to, consumer redress, and any attendant expenses for the administration of such equitable relief. Stipulating Defendant shall cooperate fully to assist the Commission in identifying consumers who may be entitled to redress pursuant to this Order. If the Commission determines, in its sole discretion, that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the Commission 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 Complaint. Any funds not used for such equitable relief shall be deposited to the United States Treasury as disgorgement. Stipulating Defendant shall have no right to challenge the Commission's choice of remedies under this Section. Stipulating Defendant shall have no right to contest the manner of distribution chosen by the Commission. This judgment for equitable monetary relief is solely remedial in nature and is not a fine, penalty, punitive assessment or forfeiture;

D. Stipulating Defendant relinquishes all dominion, control, and title to the funds paid to the fullest extent permitted by law. Stipulating Defendant shall make no claim to or

demand for return of the funds, directly or indirectly, through counsel or otherwise;

E. In accordance with 31 U.S.C. § 7701, as amended, Stipulating Defendant is hereby required, unless he already has done so, to furnish to the Commission his taxpayer identifying numbers (social security number or employer identification number), which shall be used for purposes of collecting and reporting on any delinquent amount arising out of Stipulating Defendant's relationship with the government;

F. Stipulating Defendant agrees that the facts as alleged in the Complaint filed in this action shall be taken as true without further proof in any bankruptcy case or subsequent civil litigation pursued by the Commission to enforce its rights to any payment or money judgment pursuant to this Order, including, but not limited to, a nondischargeability complaint in any bankruptcy case. Stipulating Defendant further stipulates and agrees that the facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission pursuant to Section 532(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 532(a)(2)(A), and that this Order shall have collateral estoppel effect for such purposes; and

G. Proceedings instituted under this Section are in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including any other proceedings the Commission may initiate to enforce this Order.

V.

RIGHT TO REOPEN

IT IS FURTHER ORDERED that:

A. Plaintiff's agreement to, and the Court's approval of, this Order, including, but not limited to, the suspension of the monetary judgment against Stipulating Defendant, is expressly premised upon the truthfulness, accuracy, and completeness of Stipulating Defendant's

representations regarding his financial condition, as set forth in the Financial Statement of Individual Defendant Pasquale Pappalardo executed on November 20, 2010, and the Supplemental Financial Information of Defendant Pasquale Pappalardo dated January 13, 2011, including all attachments, which contain material information upon which Plaintiff relied in negotiating and agreeing to the terms of this Order;

B. If, upon motion of the Commission, the Court finds that Stipulating Defendant failed to disclose any material Asset, materially misrepresented the value of any Asset, or made any other material misrepresentation in or omission from his financial statement or supporting documents, the suspended Judgment entered in Section IV shall become immediately due and payable (less any amounts already paid). *Provided, however*, that, in all other respects, this Order shall remain in full force and effect, unless otherwise ordered by the Court; and

C. Any proceedings instituted under this Section shall be in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including, but not limited to, contempt proceedings, or any other proceedings that the Commission or the United States might initiate to enforce this Order. For purposes of this Section, Stipulating Defendant waives any right to contest any of the allegations in the Commission's Complaint.

VI.

PROHIBITION ON COLLECTING ON ACCOUNTS

IT IS FURTHER ORDERED that Stipulating Defendant, and his officers, agents, servants, employees, and attorneys, and all other Persons in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, are hereby permanently restrained and enjoined from attempting to collect, collecting,

selling, assigning, or otherwise transferring any right to collect payment from any consumer who purchased or agreed to purchase any Timeshare Resale Service from any Defendant.

VII.

PROHIBITIONS REGARDING CONSUMER INFORMATION

IT IS FURTHER ORDERED that Stipulating Defendant, and his officers, agents, servants, employees, and attorneys, and all other Persons in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, are hereby permanently restrained and enjoined from:

A. Disclosing, using, or benefitting from customer information, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), of any Person which any Defendant obtained prior to entry of this Order in connection with the marketing or sale of any Timeshare Resale Service; and

B. Failing to dispose of such customer information in all forms in their possession, custody, or control within thirty (30) days after entry of this Order. Disposal shall be by means that protect against unauthorized access to the customer information, such as by burning, pulverizing, or shredding any papers, and by erasing or destroying any electronic media, to ensure that the customer information cannot practicably be read or reconstructed. *Provided, however,* that customer information need not be disposed of, and may be disclosed, to the extent requested by a government agency or required by a law, regulation, or court order.

VIII.

ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Stipulating Defendant obtain acknowledgments of receipt of this Order:

A. Stipulating Defendant, within seven (7) days of entry of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For five (5) years after entry of this Order, Stipulating Defendant for any business that Stipulating Defendant, individually or collectively with any other Defendant, is the majority owner or directly or indirectly controls, must deliver a copy of this Order to: (1) all principals, officers, directors, and managers; (2) all employees, agents, and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven (7) days of entry of this Order for current personnel. To all others, delivery must occur before they assume their responsibilities. In any other business, such as those in which the Stipulating Defendant is an employee without any ownership or control, such Stipulating Defendant must deliver a copy of this Order to all principals and managers of the business before participating in conduct related to the subject matter of this Order.

C. From each individual or entity to which Stipulating Defendant delivered a copy of this Order, Stipulating Defendant must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this Order.

IX.

COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Stipulating Defendant make timely submissions to the Commission:

A. One (1) year after entry of this Order, Stipulating Defendant must submit a compliance report, sworn under penalty of perjury. Stipulating Defendant must: (1) identify all telephone numbers and all email, Internet, physical, and postal addresses, including all residences; (2) identify all titles and roles in all business activities, including any business for which Stipulating Defendant performs services whether as an employee or otherwise and any entity in which Stipulating Defendant has any ownership interest; (3) describe in detail Stipulating Defendant's involvement in each such business, including responsibilities, participation, authority, control, and any ownership; (4) designate at least one telephone number and an email, physical, and postal address as points of contact, which representatives of the Commission may use to communicate with Stipulating Defendant; (5) identify all of Stipulating Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (6) describe the activities of each business, including the products and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant (which Stipulating Defendant must describe if he knows or should know due to his own involvement); (7) describe in detail whether and how Stipulating Defendant is in compliance with each Section of this Order; and (8) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

B. For twenty (20) years following entry of this Order, Stipulating Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following: (1) name, including aliases or fictitious name, or residence address; (2) title or role in any business activity, including any business for which Stipulating Defendant performs services whether as an employee or otherwise and any entity in which Stipulating Defendant has any ownership interest, and identify its name, physical address, and Internet address, if any; (3) any designated point of contact; or (4) the structure of any Corporate Defendant or any entity that Stipulating Defendant has any ownership interest in or directly or indirectly controls that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

C. Stipulating Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or any similar proceeding by or against Stipulating Defendant within fourteen (14) days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____" and supplying the date, signatory's full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW,

Washington, DC 20580. The subject line must begin: FTC v. Pasquale Pappalardo; FTC File No. X110002.

X.

RECORD KEEPING

IT IS FURTHER ORDERED that Stipulating Defendant must create certain records for twenty (20) years after entry of the Order, and to retain each such record for five (5) years.

Specifically, Stipulating Defendant for any business in which Stipulating Defendant, individually or collectively with any other Defendant, is a majority owner or directly or indirectly controls, must maintain the following records:

A. Accounting records showing the revenues from all goods or services sold, all costs incurred in generating those revenues, and the resulting net profit or loss;

B. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name, addresses, and telephone numbers; job title or position; dates of service; and, if applicable, the reason for termination;

C. Customer files obtained after entry of this Order showing the names, addresses, telephone numbers, dollar amounts paid, and the quantity and description of goods or services purchased, to the extent such information is obtained in the ordinary course of business;

D. Complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response;

E. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission; and

F. Copies of all sales scripts, training materials, advertisements, or other marketing materials.

XI.

COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Stipulating Defendant's compliance with this Order, including the financial representations upon which part of the judgment was suspended and any failure to transfer any assets as required by this Order:

A. Within fourteen (14) days of receipt of a written request from a representative of the Commission, Stipulating Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents, for inspection and copying. The Commission is also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69; *provided that*, Stipulating Defendant, after attempting to resolve a dispute without Court action and for good cause shown, may file a motion with this Court seeking an order including one or more of the protections set forth in Rule 26(c).

B. For matters concerning this Order, the Commission is authorized to communicate with Stipulating Defendant through undersigned counsel. If such counsel no longer represents Stipulating Defendant, the Commission is authorized to communicate directly with Stipulating Defendant. Stipulating Defendant must permit representatives of the Commission to interview any employee or other person affiliated with any Stipulating Defendant who has agreed to such an interview. The person interviewed may have counsel present.

C. The Commission may use all other lawful means, including posing, through its representatives, as consumers, suppliers, or other individuals or entities, to Stipulating Defendant or any individual or entity affiliated with Stipulating Defendant, without the necessity of

identification or prior notice. Nothing in this Order limits 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.

XII.

DISSOLUTION OF ASSET FREEZE AGAINST STIPULATING DEFENDANT

IT IS FURTHER ORDERED that the freeze on the Assets of Stipulating Defendant shall be lifted permanently upon entry of this Order, *provided, however*, that the freeze over the property listed in Subsection A of Section IV shall remain in effect until he has taken all of the actions required by that subsection. A Financial Institution shall be entitled to rely upon a letter from counsel for the Commission stating that the freeze on the Assets of Stipulating Defendant has been lifted.

With respect to all Defendants other than Stipulating Defendant, the Asset freeze shall remain in full force and effect.

XIII.

SEVERABILITY

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

XIV.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

JUDGMENT IS THEREFORE ENTERED in favor of the Plaintiff and against

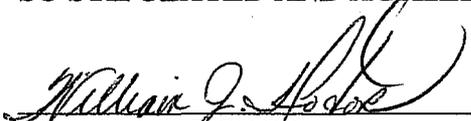
Stipulating Defendant, pursuant to all the terms and conditions recited above.

IT IS SO ORDERED.

Dated: _____

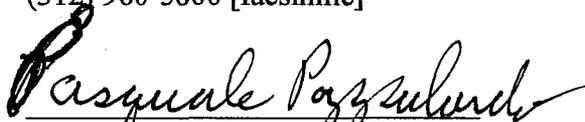
HONORABLE WILLIAM J. ZLOCH
United States District Judge

SO STIPULATED AND AGREED:



WILLIAM J. HODOR
ELIZABETH C. SCOTT
Attorneys for Plaintiff
Federal Trade Commission
55 West Monroe Street, Suite 1825
Chicago, Illinois 60603
(312) 960-5634 [telephone]
(312) 960-5600 [facsimile]

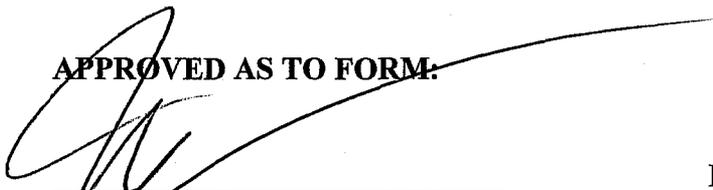
Date: 3-1-2012



PASQUALE PAPPALARDO
Defendant

Date: 11/9/11

APPROVED AS TO FORM:



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