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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

FEDERAL TRADE COMMISSION,  
Plaintiff,  
v.  
WORD SMART CORPORATION, a  
California corporation also doing  
business as WS LEARNING  
CENTER; DAVID A. KAY,  
individually and as the President and  
CEO of WORDSMART  
CORPORATION,  
Defendant.

Case No.14cv2348 AJB (RBB)

ORDER GRANTING STIPULATED  
FINAL JUDGMENT AND ORDER  
FOR PERMANENT INJUNCTION  
AND MONETARY JUDGMENT

Plaintiff, the Federal Trade Commission ("Commission" or "FTC"), filed a  
Complaint for Permanent Injunction and Other Equitable Relief ("Complaint") 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  
Action ("Telemarketing Act"), 15 U.S.C. §§ 6101-6108, as amended, to obtain tempo-  
rary, preliminary, and permanent injunctive relief, rescission or reformation of contracts,  
restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other relief  
for Defendants' deceptive and abusive practices in marketing goods and services to

1 consumers throughout the United States in violation of Section 5(a) of the FTC Act, 15  
2 U.S.C. § 45(a), and the FTC's "Telemarketing Sales Rule" ("TSR"), 16 C.F.R. Part 310.

3 The Commission and Defendants have agreed to the entry of this Stipulated Final  
4 Judgment and Order for Permanent Injunction and Monetary Judgment ("Order") by this  
5 Court to resolve all matters in dispute in this action between them.

6 NOW, THEREFORE, Plaintiff FTC and Defendants, through their respective  
7 counsel, having filed a joint motion requesting the Court to enter this Order.

8 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

9 I. FINDINGS

10 1. This Court has jurisdiction over this matter.

11 2. The Complaint alleges that Defendants participated in deceptive acts  
12 or practices in violation of Section 5 of the FTC act, 15 U.S.C. § 45, and have initiated, or  
13 caused others to initiate, numerous outbound telephone calls that violate the TSR, 16  
14 C.F.R. Part 310.

15 3. Defendants neither admit nor deny any of the allegations in the  
16 Complaint, except as specifically stated in this Order. Only for purposes of this action,  
17 Defendants admit the facts necessary to establish jurisdiction.

18 4. Defendants waive any claim that they may have under the Equal  
19 Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action  
20 through the date of this Order, and agree to bear their own costs and attorney fees.

21 5. Defendants and the Commission waive all rights to appeal or other-  
22 wise challenge or contest the validity of this Order. Defendants further waive and release  
23 any claim they may have against the FTC or its employees, agents, and representatives  
24 arising out of this action and under the terms of this Order.

25 6. Entry of this Order is in the public interest.

26 II. DEFINITIONS

27 For the purpose of this Order, the following definitions apply:  
28

1           1.     "Competent and Reliable Scientific Evidence" means tests, analyses,  
2 research, or studies that have been conducted and evaluated in an objective manner by  
3 qualified Persons, that are generally accepted in the profession to yield accurate and  
4 reliable results, and that are sufficient in quality and quantity based on standards gener-  
5 ally accepted in the relevant scientific fields, when considered in light of the entire body  
6 of relevant and reliable scientific evidence, to substantiate that a representation is true.

7           2.     "Corporate Defendant" means WordSmart Corporation, also d/b/a WS  
8 Learning Center, and its successors and assigns.

9           3.     "Defendant" or "Defendants" means the Individual Defendant and the  
10 Corporate Defendant, individually, collectively, or in any combination.

11           4.     "Established Business Relationship" means a relationship between a  
12 seller and a Person based on: (a) the Person's purchase, rental, or lease of the seller's  
13 goods or services or a financial transaction between the seller and Person, within the  
14 eighteen months immediately preceding the date of the Telemarketing call; or (b) the  
15 Person's inquiry or application regarding a good or service offered by the seller, within  
16 the three months immediately preceding the date of a Telemarketing call.

17           5.     "Individual Defendant" means David A. Kay.

18           6.     "National Do Not Call Registry" means the "do-not-call" registry of  
19 telephone numbers maintained by the Commission pursuant to 16 C.F.R. §  
20 310.4(b)(1)(iii)(B).

21           7.     "Outbound Telephone Call" means a telephone call initiated by a  
22 Telemarketer to induce the purchase of goods or services or to solicit a charitable  
23 contribution.

24           8.     "Person" means a natural person, an organization or other legal entity,  
25 including a corporation, partnership, sole proprietorship, limited liability company,  
26 association, cooperative, or any other group or combination acting as an entity.

27           9.     "Plaintiff" means the Federal Trade Commission.  
28

1           10. "Representative" means Defendants' officers, agents, servants,  
2 employees, attorneys, and all other Persons in active concert or participation with any of  
3 them, who receives actual notice of this Order by personal service or otherwise.

4           11. "Telemarketer" means any Person who, in connection with  
5 Telemarketing, initiates or receives telephone calls to or from a customer or donor.

6           12. "Telemarketing" means any plan, program, or campaign which is  
7 conducted to induce the purchase of goods or services or a charitable contribution by use  
8 of one or more telephones, and which involves a telephone call, whether or not covered  
9 by the TSR.

10           ORDER

11           III. PROHIBITION AGAINST MISREPRESENTATIONS

12 IT IS ORDERED that Defendants and their Representatives, whether acting directly or  
13 indirectly, in connection with the manufacturing, advertising, marketing, promotion,  
14 offering for sale, sale, or distribution of any goods or services, are permanently restrained  
15 and enjoined from:

16           A. Making, or assisting others in making, in any manner, expressly or by  
17 implication, including through the use of a product name, endorsement, depiction,  
18 trademark, or illustration, any representation about the benefits, performance, or efficacy  
19 of any goods or services for teaching vocabulary or reading comprehension, or enhancing  
20 language ability, cognitive ability, reading speed, income potential, test scores, college  
21 options, or school performance, including, but not limited to, that:

- 22           1. Consumers who use Defendants' goods or services will learn faster;
- 23           2. Consumers who use Defendants' goods or services will score higher in  
24 school and on tests;
- 25           3. Consumers who use Defendants' goods or services will learn words  
26 faster;
- 27           4. Consumers who use Defendants' speed reading program will improve  
28 their reading speed, while improving comprehension;

1           5. Consumers who use Defendants' goods or services will be able to  
2 identify the meaning of any word they come across;

3           6. Consumers who use Defendants' goods or services will improve their  
4 letter grades, SAT scores, ACT scores, GRE and GMAT scores, and IQ scores; or

5           7. Consumers who use Defendants' goods or services will perform better  
6 in school, on standardized tests, or in other areas of life;

7 unless the representation is true, not misleading, and, at the time it is made, Defendants  
8 possess and rely upon Competent and Reliable Scientific Evidence that substantiates the  
9 representation;

10          B. Making, or assisting others in making, in any manner, expressly or by  
11 implication, including through the use of a product name, endorsement, depiction,  
12 trademark, or illustration, any representation not covered by Subsection A above about  
13 the benefits, performance, or efficacy of any goods or services unless the representation is  
14 true, not misleading, and, at the time it is made, Defendants possess and rely upon  
15 competent and reliable evidence, which when appropriate must be Competent and  
16 Reliable Scientific Evidence, that substantiates the representation; and

17          C. Misrepresenting, or assisting others in misrepresenting, in any manner,  
18 expressly or by implication, including through the use of a product name, endorsement,  
19 depiction, trademark, or illustration:

20           1. That the child or children of a consumer expressed an interest in  
21 Defendants' goods or services;

22           2. That Defendants have an affiliation with the administrators of a  
23 standardized test or a school attended by a consumer's child;

24           3. Any material aspect of the nature or terms of Defendants' refund,  
25 cancellation, exchange, or repurchase policies, including but not limited to any  
26 money-back policy or guarantee; or

27           4. Any other material fact concerning Defendants' goods or services,  
28 including but not limited to the total costs; any material restrictions, limitations, or

1 conditions; or any material aspect of their benefits, performance, efficacy, nature, or  
2 central characteristics.

3 IV. PROHIBITIONS REGARDING TELEMARKETING

4 IT IS FURTHER ORDERED that, in connection with Telemarketing, Defendants  
5 and their Representatives, whether acting directly or indirectly, are permanently re-  
6 strained and enjoined from engaging in, causing others to engage in, or assisting others  
7 engaging in, any of the following practices:

8 A. Initiating any Outbound Telephone Call to any Person at a telephone number  
9 on the National Do Not Call Registry, unless Defendants prove that:

10 1. Defendants have obtained the express agreement, in writing, of such  
11 Person to place calls to that Person. Such written agreement shall clearly evidence such  
12 Person's authorization that calls made by or on behalf of Defendants may be placed to  
13 that Person, and shall include the telephone number to which the calls may be placed and  
14 the signature of that Person; or

15 2. Defendants have an Established Business Relationship with such  
16 Person, and that Person has not previously stated that he or she does not wish to receive  
17 Outbound Telephone Calls made by or on behalf of Defendants;

18 B. Initiating any Outbound Telephone Call to a Person when that Person has  
19 previously stated that he or she does not wish to receive an Outbound Telephone Call  
20 made by or on behalf of Defendants;

21 C. Abandoning, or causing others to abandon, any Outbound Telephone Call to  
22 a Person by failing to connect the call to a live operator within two seconds of the  
23 Person's completed greeting, unless Defendants or their Representatives prove that the  
24 following four conditions are met:

25 1. Defendants or their Representatives employ technology that ensures  
26 abandonment of no more than three percent of all calls answered by a Person, measured  
27 over the duration of a single calling campaign, if less than thirty days, or separately over  
28 each successive 30-day period or portion thereof that the campaign continues;

1           2. Defendants or their Representatives, for each Telemarketing call  
2 placed, allow the telephone to ring for at least fifteen seconds or four rings before  
3 disconnecting an unanswered call;

4           3. Whenever a live operator is not available to speak with the Person  
5 answering the call within two seconds after the Person's completed greeting, Defendants  
6 or their Representatives promptly play a recorded message that states Defendants' name  
7 and telephone number; and

8           4. Defendants or their Representatives retain records establishing  
9 compliance with the preceding three conditions.

10           V. PROHIBITION ON COLLECTING ON ACCOUNTS

11           IT IS FURTHER ORDERED that Defendants and their Representatives, whether  
12 acting directly or indirectly, are hereby restrained and enjoined from attempting to  
13 collect, collecting, or assigning any right to collect payment from any consumer who  
14 purchased or agreed to purchase any good or service from any Defendant prior to entry of  
15 this Order.

16           VI. MONETARY JUDGMENT AND PARTIAL SUSPENSION

17           IT IS FURTHER ORDERED that:

18           A. Judgment in the amount of Eighteen Million Seven Hundred Thousand  
19 Dollars (\$18,700,000) is entered in favor of the Commission against the Individual  
20 Defendant and the Corporate Defendant, each jointly and severally, as equitable monetary  
21 relief.

22           B. Defendants are ordered to pay to the Commission One Hundred Forty-Seven  
23 Thousand and Four Hundred Dollars (\$147,400), which, as Defendants stipulate, their  
24 undersigned counsel holds in escrow for no purpose other than payment to the Commis-  
25 sion. Such payment must be made within 7 days of entry of this Order by electronic fund  
26 transfer in accordance with instructions previously provided by a representative of the  
27 Commission. Upon such payment, the remainder of the judgment is suspended, subject to  
28 the Subsections below.

1 C. The Commission's agreement to the suspension of part of the judgment is  
2 expressly premised upon the truthfulness, accuracy, and completeness of Defendants'  
3 sworn financial statements and related documents (collectively, "financial representa-  
4 tions") submitted to the Commission, namely:

5 1. The Financial Statement of Individual Defendant David A. Kay  
6 signed on January 7, 2014, including the attachments;

7 2. The Financial Statement of Corporate Defendant WordSmart Corpora-  
8 tion signed by David A. Kay, President of WordSmart Corporation on December 18,  
9 2013, including the attachments;

10 3. The additional documentation submitted by e-mail from Defendants'  
11 counsel Helen Mac Murray to Commission counsel Kathleen Daffan and Danielle  
12 Estrada dated November 8, 2013, attaching Corporate Defendant WordSmart Corpora-  
13 tion's Combined Financial Statements for the period ending December 31, 2012;

14 4. The documentation submitted by file transfer protocol (FTP) on  
15 January 21, 2014, February 18, 2014, March 12, 2014, and April 1, 2014 from Defen-  
16 dants' counsel Erica Sherrick to Commission counsel Kathleen Daffan and Danielle  
17 Estrada;

18 5. The additional documentation submitted by e-mail from Defendants'  
19 counsel Erica Sherrick to Commission counsel Kathleen Daffan and Danielle Estrada  
20 dated March 4, 2014, March 11, 2014, March 13, 2014, March 21, 2014, March 26, 2014,  
21 March 27, 2014, March 31, 2014, April 5, 2014, April 15, 2014, April 18, 2014, April 28,  
22 2014, May 9, 2014, May 27, 2014, and May 28, 2014; and

23 6. The additional documentation submitted by e-mail from Defendants'  
24 counsel Helen Mac Murray to Commission counsel Kathleen Daffan and Danielle  
25 Estrada dated April 8, 2014, April 9, 2014, April 13, 2014, and May 22, 2014.

26 D. The suspension of the judgment will be lifted as to any Defendant if, upon  
27 motion by the Commission, the Court finds that the Defendant failed to disclose any  
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1 material asset, materially misstated the value of any asset, or made any other material  
2 misstatement or omission in the financial representations identified above.

3 E. If the suspension of the judgment is lifted, the judgment becomes immedi-  
4 ately due as to that Defendant in the amount specified in Subsection A above, which the  
5 parties stipulate only for purposes of this Section represents the consumer injury and  
6 unjust enrichment alleged in the Complaint, less any payment previously made pursuant  
7 to this Section, plus interest computed from the date of entry of this Order.

8 VII. ADDITIONAL MONETARY PROVISIONS

9 IT IS FURTHER ORDERED that:

10 A. Defendants relinquish dominion and all legal and equitable right, title, and  
11 interest in all assets transferred pursuant to this Order and may not seek the return of any  
12 assets.

13 B. The facts alleged in the Complaint will be taken as true, without further  
14 proof, in any subsequent civil litigation by or on behalf of the Commission, including in a  
15 proceeding to enforce its rights to any payment or monetary judgment pursuant to this  
16 Order, such as a nondischargeability complaint in any bankruptcy case.

17 C. The facts alleged in the Complaint establish all elements necessary to sustain  
18 an action by the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code,  
19 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such  
20 purposes.

21 D. Defendants acknowledge that their Taxpayer Identification Numbers (Social  
22 Security Numbers or Employer Identification Numbers), which they previously submitted  
23 to the Commission, may be used for collecting and reporting on any delinquent amount  
24 arising out of this Order, in accordance with 31 U.S.C. § 7701.

25 E. All money paid to the Commission pursuant to this Order may be deposited  
26 into a fund administered by the Commission or its designee to be used for equitable  
27 relief, including consumer redress and any attendant expenses for the administration of  
28 any redress fund. If a representative of the Commission decides that direct redress to

1 consumers is wholly or partially impracticable or money remains after redress is com-  
2 pleted, the Commission may apply any remaining money for such other equitable relief  
3 (including consumer information remedies) as it determines to be reasonably related to  
4 Defendants' practices alleged in the Complaint. Any money not used for such equitable  
5 relief is to be deposited to the U.S. Treasury as disgorgement. Defendants have no right  
6 to challenge any actions the Commission or its representatives may take pursuant to this  
7 Subsection.

8 F. If any Defendant is in default on any obligations under this Section, then the  
9 judgment amount, minus any payments previously made pursuant to this Section,  
10 becomes immediately due. A further ten-day grace period or other such concession  
11 concerning default is unlikely to be warranted.

12 G. If any Defendant fails to pay fully the amount due at the time specified,  
13 Defendants must cooperate fully with the Commission and their representatives in all  
14 attempts to collect the judgment. In such an event, Defendants agree to provide federal  
15 and state tax returns for the preceding 2 years, and to complete new financial disclosure  
16 forms fully and accurately within 10 business days of receiving a request from the  
17 Commission. Defendants further authorize the Commission to verify all information  
18 provided on their financial disclosure forms with all appropriate third parties, including  
19 financial institutions.

20 H. The Commission may request any tax-related information, including  
21 amended tax returns and any other filings, that Defendants have the authority to release.  
22 Within 14 days of receipt of a written request from a representative of the Commission,  
23 Defendants must take all necessary steps (such as filing a completed IRS Form 4506 or  
24 8821) to cause the Internal Revenue Service or other tax authority to provide the informa-  
25 tion directly to the Commission.

## 26 VIII. CUSTOMER INFORMATION

27 IT IS FURTHER ORDERED that Defendants and their Representatives are  
28 permanently restrained and enjoined from directly or indirectly:

1           A.     Failing to provide sufficient customer information to enable the Commission  
2 to efficiently administer consumer redress. If a representative of the Commission requests  
3 in writing any information related to redress, Defendants must provide it, in the form  
4 prescribed by the Commission, within 14 days; and

5           B.     Disclosing, using, or benefitting from customer information, including the  
6 name, address, telephone number, email address, social security number, other identify-  
7 ing information, or any data that enables access to a customer's account (including a  
8 credit card, bank account, or other financial account), that any Defendant obtained prior  
9 to entry of this Order in connection with the manufacturing, advertising, marketing,  
10 promotion, offering for sale, sale, or distribution of any of Defendants' goods or services.

11           IX.    COOPERATION

12           IT IS FURTHER ORDERED that Defendants must fully cooperate with represen-  
13 tatives of the Commission in this case and in any investigation related to or associated  
14 with the transactions or the occurrences that are the subject of the Complaint. Defendants  
15 must provide truthful and complete information, evidence, and testimony. Individual  
16 Defendant must appear and Corporate Defendant must cause its officers, employees,  
17 representatives, or agents to appear for interviews, discovery, hearings, trials, and any  
18 other proceedings that a Commission representative may reasonably request upon 5 days  
19 written notice, or other reasonable notice, at such places and times as a Commission  
20 representative may designate, without the service of a subpoena.

21           X.    ORDER ACKNOWLEDGMENTS

22           IT IS FURTHER ORDERED that Defendants obtain acknowledgments of receipt  
23 of this Order:

24           A.     Each Defendant, within 7 days of entry of this Order, must submit to the  
25 Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

26           B.     For 15 years after entry of this Order, Individual Defendant, for any business  
27 that he, individually or collectively with Defendant, is the majority owner or directly or  
28 indirectly controls, and Corporate Defendant must each deliver a copy of this Order to:

1 (1) all principals, officers, directors, and LLC managers and members; (2) all employees,  
2 agents, and representatives who participate in the conduct specified in Sections III-V; and  
3 (3) any business entity resulting from any change in structure as set forth in the Section  
4 titled Compliance Reporting. Delivery must occur within 7 days of entry of this Order  
5 for current personnel. For all others, delivery must occur before they assume their  
6 responsibilities.

7 C. From each individual or entity to which a Defendant delivered a copy of this  
8 Order, that Defendant must obtain, within 30 days, a signed and dated acknowledgment  
9 of receipt of this Order.

10 XI. COMPLIANCE REPORTING

11 IT IS FURTHER ORDERED that Defendants make timely submissions to the  
12 Commission:

13 A. One year after entry of this Order, each Defendant must submit a compliance  
14 report, sworn under penalty of perjury:

15 1. Each Defendant must: (a) identify the primary physical, postal, and  
16 email address and telephone number, as designated points of contact, which representa-  
17 tives of the Commission may use to communicate with that Defendant; (b) identify all of  
18 that Defendant's businesses by all of their names, telephone numbers, and physical,  
19 postal, email, and Internet addresses; (c) describe the activities of each business, includ-  
20 ing the goods and services offered, the means of manufacturing, advertising, marketing,  
21 promotion, offering for sale, sale, and distribution, and the involvement of any other  
22 Defendant (which Individual Defendant must describe if he knows or should know due to  
23 his own involvement); (d) describe in detail whether and how that Defendant is in  
24 compliance with each Section of this Order; and (e) provide a copy of each Order  
25 Acknowledgment obtained pursuant to this Order, unless previously submitted to the  
26 Commission.

27 2. Additionally, Individual Defendant must: (a) identify all telephone  
28 numbers and all physical, postal, email and Internet addresses, including all residences;

1 (b) identify all business activities, including any business for which he performs services  
2 whether as an employee or otherwise and any entity in which he has any ownership  
3 interest; and (c) describe in detail his involvement in each such business, including title,  
4 role, responsibilities, participation, authority, control, and any ownership.

5 B. For 15 years after entry of this Order, each Defendant must submit a  
6 compliance notice, sworn under penalty of perjury, within 14 days of any change in the  
7 following:

8 1. Each Defendant must report any change in: (a) any designated point  
9 of contact; or (b) the structure of Corporate Defendant or any entity that Defendant has  
10 any ownership interest in or controls directly or indirectly that may affect compliance  
11 obligations arising under this Order, including: creation, merger, sale, or dissolution of  
12 the entity or any subsidiary, parent, or affiliate that engages in any acts or practices  
13 subject to this Order.

14 2. Additionally, Individual Defendant must report any change in: (a)  
15 name, including aliases or fictitious name, or residence address; or (b) title or role in any  
16 business activity, including any business for which he performs services whether as an  
17 employee or otherwise and any entity in which he has any ownership interest, and  
18 identify the name, physical address, and Internet address, if any, of the business or entity.

19 C. Each Defendant must submit to the Commission notice of the filing of any  
20 bankruptcy petition, insolvency proceeding, or similar proceeding by or against such  
21 Defendant within 14 days of its filing.

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

27 E. Unless otherwise directed by a Commission representative in writing, all  
28 submissions to the Commission pursuant to this Order must be emailed to DE-

1 brief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate  
2 Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission,  
3 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin:  
4 FTC v. WordSmart Corporation.

5 XII. RECORDKEEPING

6 IT IS FURTHER ORDERED that Defendants must create certain records for 15  
7 years after entry of the Order, and retain each such record for 5 years. Specifically,  
8 Corporate Defendant in connection with its Telemarketing and/or its manufacturing,  
9 advertising, marketing, promotion, offering for sale, sale, or distribution of goods or  
10 services; and Individual Defendant for any business in which he, individually or collec-  
11 tively with any other Defendant, is a majority owner or directly or indirectly controls,  
12 must create and retain the following records:

13 A. Accounting records showing the revenues from all goods or services sold;

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

17 C. Records of all consumer complaints and refund requests, whether received  
18 directly or indirectly, such as through a third party, and any response;

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

21 E. A copy of each unique advertisement or other marketing material.

22 XIII. COMPLIANCE MONITORING

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

27 A. Within 14 days of receipt of a written request from a representative of the  
28 Commission each Defendant must: submit additional compliance reports or other

1 requested information, which must be sworn under penalty of perjury; appear for  
2 depositions; and produce documents for inspection and copying. The Commission is also  
3 authorized to obtain discovery, without further leave of court, using any of the procedures  
4 prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions),  
5 31, 33, 34, 36, 45, and 69.

6 B. For matters concerning this Order, the Commission is authorized to  
7 communicate directly with each Defendant. Defendants must permit representatives of  
8 the Commission to interview any employee or other Person affiliated with any Defendant  
9 who has agreed to such an interview. The Person interviewed may have counsel present.

10 C. The Commission may use all other lawful means, including posing, through  
11 its representatives, as consumers, suppliers, or other individuals or entities, to Defendants  
12 or any individual or entity affiliated with Defendants, without the necessity of identifica-  
13 tion or prior notice. Nothing in this Order limits the Commission's lawful use of compul-  
14 sory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

15 XIV. RETENTION OF JURISDICTION

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

18 IT IS SO ORDERED.

19  
20 DATED: October 6, 2014

21   
22 \_\_\_\_\_  
23 Hon. Anthony J. Battaglia  
24 U.S. District Judge  
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27  
28