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14 UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
15 EUREKA DIVISION

17 UNITED STATES OF AMERICA,

18 Plaintiff,

19 v.

20 LAWRENCE L. DUSKIN, individually, and also
doing business as HollywoodColorContacts.com,
21 WorldColorContacts.com, and
TopModelContacts.com,
22 Defendant.

Case No. 1:18-cv-7359

**[Proposed] STIPULATED ORDER FOR
CIVIL PENALTIES, PERMANENT
INJUNCTION, AND OTHER RELIEF**

24 Plaintiff, the United States of America, acting upon notification and on behalf of the Federal
25 Trade Commission (“Commission”), filed its Complaint for Civil Penalties, Permanent Injunction, and
26 Other Equitable Relief, (“Complaint”), pursuant to Sections 5(a)(1), 5(m)(1)(A), 13(b), 16(a)(1), and 19
27 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), 56(a)(1),
28

1 and 57b. Defendant has waived service of the summons and the Complaint. Plaintiff and Defendant
2 stipulate to the entry of this Stipulated Order for Civil Penalties, Permanent Injunction, and Other Relief
3 (“Order”) to resolve all matters in dispute in this action between them.

4 THEREFORE, IT IS ORDERED as follows:

5 **FINDINGS**

6 1. This Court has jurisdiction over this matter.

7
8 2. The Complaint states a claim upon which relief may be granted against Defendant under
9 Sections 9(a) and 9(b) of the Fairness to Contact Lens Consumers Act (“FCLCA”), 15 U.S.C. §§
10 7608(a) and (b), and Sections 5(a)(1), 5(m)(1)(A), 13(b), 16(a), and 19(a)(1) of the Federal Trade
11 Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), 56(a), and 57b(a)(1).

12 3. Defendant neither admits nor denies any of the allegations in the Complaint, except as
13 specifically stated in this Order. Only for purposes of this action, Defendant admits the facts necessary
14 to establish jurisdiction.

15 4. Defendant waives any claim that he may have under the Equal Access to Justice Act, 28
16 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agrees to
17 bear his own costs and attorney fees.

18 5. Defendant and Plaintiff waive all rights to appeal or otherwise challenge or contest the
19 validity of this Order.
20

21 **ORDER**

22 **DEFINITIONS**

23 For the purpose of this Order, the following definitions apply:

24 1. “**Contact lens**” means any contact lens for which State or Federal law requires a
25 prescription.
26

27 2. “**Defendant**” means Lawrence L. Duskin, individually, and also doing business as
28 HollywoodColorContacts.com, WorldColorContacts.com, TopModelContacts.com, and any

1 combination of the foregoing.

2 **I. BAN ON SELLING CONTACT LENSES**

3 **IT IS ORDERED** that Defendant is permanently restrained and enjoined from
4 advertising, marketing, promoting, dispensing, or selling, or assisting others in advertising, marketing,
5 promotion, dispensing, or selling, contact lenses.

6 **II. MONETARY JUDGMENT FOR CIVIL PENALTY AND PARTIAL SUSPENSION**

7 **IT IS FURTHER ORDERED that:**

8 A. Judgment in the amount of \$575,000 is entered in favor of Plaintiff against Defendant as a
9 civil penalty, pursuant to Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

10 B. Defendant is ordered to pay to Plaintiff, by making payment to the Treasurer of the United
11 States, \$60,000 which, as Defendant stipulates, his undersigned counsel holds in escrow for
12 no purpose other than payment to Plaintiff. Such payment must be made within 7 days of
13 entry of this Order by electronic fund transfer in accordance with instructions previously
14 provided by a representative of Plaintiff. Upon such payment, the remainder of the judgment
15 is suspended, subject to the Subsections below.

16 C. The Commission and Plaintiff's agreement to the suspension of part of the judgment is
17 expressly premised upon the truthfulness, accuracy, and completeness of Defendant's sworn
18 financial statements and related documents (collectively, "financial representations")
19 submitted to the Commission, namely:

- 20 1. Financial Statement of Defendant signed on February 9, 2018, including the attachments;
21 2. Additional documentation submitted from Defendant's counsel on June 4, 2018 and June
22 7, 2018, including a letter from Defendant's tax preparer and 1099-R forms from 2014 and
23 2017;
24 3. Additional documentation submitted from Defendant's counsel on June 18, 2018,
25 including Defendant's 2017 tax returns; 1099-R forms from 2014, 2015, 2016 and 2017; and
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27
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1 brokerage account statements dated 1/1/2018 to 3/3/2018 and for 4/1/2018 to 4/30/2018; and
2 4. Additional documentation submitted from Defendant's counsel on June 25, 2018,
3 consisting of a letter dated June 8, 2018.

4 D. The suspension of the judgment will be lifted if, upon motion by the Commission or Plaintiff,
5 the Court finds that Defendant failed to disclose any material asset, materially misstated the
6 value of any asset, or made any other material misstatement or omission in the financial
7 representations identified above.

8 E. If the suspension of the judgment is lifted, the judgment becomes immediately due in the
9 amount specified in Subsection A. above (which the parties stipulate only for purposes of this
10 Section represents the amount of civil penalty for the violations alleged in the Complaint,
11 less any payment previously made pursuant to this Section, plus interest computed from the
12 date of entry of this Order.
13
14

15 **III. ADDITIONAL MONETARY PROVISIONS**

16 **IT IS FURTHER ORDERED that:**

17 A. Defendant relinquishes dominion and all legal and equitable right, title, and interest in all
18 assets transferred pursuant to this Order and may not seek the return of any assets.

19 B. The facts alleged in the Complaint will be taken as true, without further proof, in any
20 subsequent civil litigation by or on behalf of the Commission, including in a proceeding to
21 enforce its rights to any payment or monetary judgment pursuant to this Order.

22 C. Defendant agrees that the judgment represents a civil penalty owed to the government of the
23 United States, is not compensation for actual pecuniary loss, and, therefore, as to the
24 Defendant, it is not subject to discharge under the Bankruptcy Code pursuant to 11 U.S.C. §
25 523(a)(7).
26
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1 D. Defendant acknowledges that his Taxpayer Identification Numbers (Social Security Numbers
2 or Employer Identification Numbers), which Defendant previously submitted to the
3 Commission, may be used for collecting and reporting on any delinquent amount arising out
4 of this Order, in accordance with 31 U.S.C. § 7701.
5

6 **IV. ORDER OF ACKNOWLEDGMENT**

7 **IT IS FURTHER ORDERED** that Defendant obtain acknowledgments of receipt of this

8 Order:

- 9 A. Defendant, within 7 days of entry of this Order, must submit to the Commission an
10 acknowledgment of receipt of this Order sworn under penalty of perjury;
11
12 B. For 5 years after entry of this Order, Defendant, for any business for which he is the majority
13 owner or controls directly or indirectly, must deliver a copy of this Order to: (1) all
14 principals, officers, directors, and LLC managers and members; (2) all employees having
15 managerial responsibilities for conduct related to the subject matter of the Order and all
16 agents and representatives who participate in conduct related to the subject matter of the
17 Order; and (3) any business entity resulting from any change in structure as set forth in the
18 Section titled Compliance Reporting. Delivery must occur within 7 days of entry of this
19 Order for current personnel. For all others, delivery must occur before they assume their
20 responsibilities.
21
22 C. From each individual or entity to which Defendant delivered a copy of this Order, Defendant
23 must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

24 **V. COMPLIANCE REPORTING**

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

- 26 A. One hundred and eighty days after entry of this Order, Defendant must submit a compliance
27 report, sworn under penalty of perjury, that:
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- 1 1. Identifies all telephone numbers and all physical, postal, email and Internet addresses,
2 including all residences;
 - 3 2. Identifies all business activities, including any business for which Defendant performs
4 services whether as an employee or otherwise and any entity in which Defendant has any
5 ownership interest; and
 - 6 3. Describes in detail Defendant's involvement in each such business, including title, role,
7 responsibilities, participation, authority, control, and any ownership;
 - 8 4. Identifies the primary physical, postal, and email address and telephone number, as
9 designated points of contact, which representatives of the Plaintiff may use to
10 communicate with Defendant;
 - 11 5. Identifies all of Defendant's businesses by all of their names, telephone numbers, and
12 physical, postal, email, and Internet addresses;
 - 13 6. Describes the activities of each business, including the goods and services offered, and
14 the means of advertising, marketing, and sales;
 - 15 7. Describes in detail whether and how Defendant is in compliance with each Section of this
16 Order; and
 - 17 8. Provides a copy of each Order Acknowledgment obtained pursuant to this Order, unless
18 previously submitted to the Commission.
- 19
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- 21
- 22 B. For 20 years after entry of this Order, Defendant must submit a compliance notice, sworn
23 under penalty of perjury, within 14 days of any change in the following:
- 24 1. Any designated point of contact;
 - 25 2. The structure of any entity that Defendant has any ownership interest in or controls
26 directly or indirectly that may affect compliance obligations arising under this Order,
27 including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or
28

1 affiliate that engages in any acts or practices subject to this Order;

2 3. Name, including aliases or fictitious name, or residence address; and

3 4. Title or role in any business activity, including any business for which Defendant

4 performs services whether as an employee or otherwise and any entity in which

5 Defendant has any ownership interest, and identify the name, physical address, and any

6 Internet address of the business or entity.

7
8 C. Defendant must submit to the Commission notice of the filing of any bankruptcy petition,
9 insolvency proceeding, or similar proceeding by or against him within 14 days of its filing.

10 D. Any submission to the Commission required by this Order to be sworn under penalty of
11 perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding:

12 “I declare under penalty of perjury under the laws of the United States of America that the
13 foregoing is true and correct. Executed on: _____” and supplying the date, signatory’s full
14 name, title (if applicable), and signature.

15
16 E. Unless otherwise directed by a Commission representative in writing, all submissions to the
17 Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight
18 courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of
19 Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW,
20 Washington, DC 20580. The subject line must begin: United States v. Lawrence L. Duskin,
21 [INSERT X NUMBER].
22

23 **VI. RECORDKEEPING**

24 **IT IS FURTHER ORDERED** that Defendant must create certain records for 20 years after
25 entry of the Order, and retain each such record for 5 years. Specifically, Defendant for any business for
26 which he is a majority owner or controls directly or indirectly, must create and retain the following
27 records:
28

- 1 A. Accounting records showing the revenues from all goods or services sold;
- 2 B. Personnel records showing, for each person providing services, whether as an employee or
- 3 otherwise, that person's: name; addresses; telephone numbers; job title or position; dates
- 4 of service; and (if applicable) the reason for termination;
- 5 C. Records of all consumer complaints and refund requests concerning the subject matter of
- 6 the Order, whether received directly or indirectly, such as through a third party, and any
- 7 response;
- 8 D. Copies of all unique sales scripts, training materials, advertisements, or other marketing
- 9 materials for contact lenses; and
- 10 E. All records necessary to demonstrate full compliance with each provision of this Order,
- 11 including all submissions to the Commission.
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14 **VII. COMPLIANCE MONITORING**

15 **IT IS FURTHER ORDERED** that, for the purpose of monitoring Defendant's compliance with

16 this Order:

- 17 A. Within 14 days of receipt of a written request from a representative of the Commission or
- 18 Plaintiff, Defendant must: submit additional compliance reports or other requested
- 19 information, which must be sworn under penalty of perjury; appear for depositions; and
- 20 produce documents for inspection and copying. The Commission and Plaintiff are also
- 21 authorized to obtain discovery, without further leave of court, using any of the procedures
- 22 prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions),
- 23 31, 33, 34, 36, 45, and 69.
- 24 B. For matters concerning this Order, the Commission or Plaintiff is authorized to
- 25 communicate directly with Defendant. Defendant must permit representatives of the
- 26 Commission and Plaintiff to interview any employee or other person affiliated with
- 27
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1 Defendant who has agreed to such an interview. The person interviewed may have counsel
2 present.

3 C. The Commission and Plaintiff may use all other lawful means, including posing, through
4 its representatives as consumers, suppliers, or other individuals or entities, to Defendant or
5 any individual or entity affiliated with Defendant, without the necessity of identification or
6 prior notice. Nothing in this Order limits the Commission's lawful use of compulsory
7 process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.
8

9 D. Upon written request from a representative of the Commission or Plaintiff, any consumer
10 reporting agency must furnish consumer reports concerning Defendant, pursuant to Section
11 604(1) of the Fair Credit Reporting Act, 15 U.S.C. §1681b(a)(1).
12

13 **VIII. RETENTION OF JURISDICTION**

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

16
17 **SO ORDERED** this _____ day of _____, 2018.
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21 _____
22 ROBERT M. ILLMAN
23 UNITED STATES MAGISTRATE JUDGE
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1 **SO STIPULATED AND AGREED:**

2 **FOR DEFENDANT:**

3 

4 _____
5 KAVON ALDI, ESQ.
6 SETH W. WIENER ESQ.
7 The Internet Law Group
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9 San Ramon, CA 94582
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11 (925)487-5607 (Wiener)
12 (310)356-3257 (facsimile)
13 kavon@tilg.us, seth@tilg.us
14 Counsel for Lawrence L. Duskin

15 **DEFENDANT:**

16 

17 _____
18 LAWRENCE L. DUSKIN

FOR PLAINTIFF UNITED STATES OF AMERICA:

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