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IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA

FEDERAL TRADE COMMISSION,  
Plaintiff,  
vs.  
DIGITAL ALTITUDE LLC, et al.,  
Defendants.

No. 2:18-CV-00729 JAK (MRWx)  
**ORDER RE APPLICATION FOR  
ENTRY OF STIPULATED ORDER  
FOR PERMANENT INJUNCTION  
AND MONETARY JUDGMENT  
AGAINST THERMOGRAPHY  
FOR LIFE, LLC, ALSO D/B/A  
LIVING EXCEPTIONALLY, INC.  
(DKT. 282)**

**JS-6: Thermography For Life, Llc  
Only**

This matter comes before the court upon the stipulation of Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), and Settling Defendant Thermography for Life, LLC, also d/b/a Living Exceptionally, Inc. for the entry of a Permanent Injunction against Settling Defendant.

On January 29, 2018, the FTC filed its Complaint for a Permanent Injunction And Other Relief pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b) (Docket No. 1). Pursuant to Fed. R. Civ. P. 65(b), the FTC also filed an ex parte application for a temporary

1 restraining order, asset freeze, other equitable relief, and an order to show cause  
2 why a preliminary injunction should not issue against Digital Altitude LLC, Digital  
3 Altitude Limited, Aspire Processing LLC, Aspire Processing Limited, Aspire  
4 Ventures Ltd, Disc Enterprises Inc., RISE Systems & Enterprise LLC (Utah), RISE  
5 Systems & Enterprise LLC (Nevada), Soar International Limited Liability  
6 Company, The Upside, LLC, Thermography for Life, LLC, also d/b/a Living  
7 Exceptionally, Inc., Michael Force, Mary Dee, Morgan Johnson, Alan Moore, and  
8 Sean Brown (collectively, “Defendants”). Docket No. 5.

9 The Court granted the application, issuing a temporary restraining order  
10 (“TRO”) on February 1, 2018, including an asset freeze, appointment of a receiver,  
11 immediate access to Defendants’ business premises, and other temporary relief.  
12 Docket No. 34. The TRO also ordered Defendants to appear on February 15, 2018  
13 and show cause why a preliminary injunction should not issue against them. The  
14 parties stipulated to a continuance of the show cause hearing and the court granted  
15 that request, extending the TRO and continuing the hearing to March 5, 2018.  
16 Docket No. 61. At the close of the hearing on March 6, 2018, the Court entered a  
17 preliminary injunction against Settling Defendant for the duration of this litigation.  
18 Docket No. 108. The Court later reduced the order to writing. Docket No. 111. The  
19 Commission and Settling Defendant now stipulate to the entry of this Stipulated  
20 Order for Permanent Injunction and Monetary Judgment (“Order”) to resolve all  
21 matters in dispute in this action between them.

22 THEREFORE, The Application for Settlement Approval of Stipulated  
23 Order for Permanent Injunction and Monetary Judgment is GRANTED.

24  
25 IS ORDERED as follows:

26 **FINDINGS**

27 A. This Court has jurisdiction over this matter.  
28

1 B. The Complaint charges that Settling Defendant participated in  
2 deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45.

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

6 D. Settling Defendant waives any claim that it may have under the Equal  
7 Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action  
8 through the date of this Order, and agrees to bear its own costs and attorney fees.

9 E. Settling Defendant and the Commission waive all rights to appeal or  
10 otherwise challenge or contest the validity of this Order.

### 11 DEFINITIONS

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

13 A. “**Acquirer**” or “**Acquiring Bank**” means a business organization,  
14 Financial Institution, or an agent of a business organization or Financial Institution  
15 that has authority from an organization that operates or licenses a credit card  
16 system (e.g., Visa, MasterCard, American Express or Discover) to authorize  
17 Merchants to accept, transmit, or process payment by credit card through the credit  
18 card system for money, products, or anything else of value.

19 B. “**Business Coaching Program**” means any program, plan, or product,  
20 including those related to work-at-home-opportunities, that is represented,  
21 expressly or by implication, to train or teach a participant or purchaser how to  
22 establish a business or earn money or other consideration through a business or  
23 other activity.

24 C. “**Corporate Defendants**” means Digital Altitude LLC; Digital  
25 Altitude Limited; Aspire Processing LLC; Aspire Processing Limited; Aspire  
26 Ventures Ltd; Disc Enterprises Inc.; RISE Systems & Enterprise LLC (Utah); RISE  
27 Systems & Enterprise LLC (Nevada); Soar International Limited Liability  
28 Company; The Upside, LLC; Thermography for Life, LLC, d/b/a Living

1 Exceptionally, Inc., and each of their subsidiaries, affiliates, successors, and  
2 assigns.

3 D. **“Credit Card Laundering”** means: (a) presenting or depositing into,  
4 or causing or allowing another to present or deposit into, the credit card system for  
5 payment, a Credit Card Sales Draft generated by a transaction that is not the result  
6 of a credit card transaction between the cardholder and the Merchant; (b)  
7 employing, soliciting, or otherwise causing or allowing a Merchant, or an  
8 employee, representative, or agent of a Merchant, to present to or deposit into the  
9 credit card system for payment, a Credit Card Sales Draft generated by a  
10 transaction that is not the result of a credit card transaction between the cardholder  
11 and the Merchant; or (c) obtaining access to the credit card system through the use  
12 of a business relationship or an affiliation with a Merchant, when such access is not  
13 authorized by the Merchant Account agreement or the applicable credit card  
14 system.

15 E. **“Credit Card Sales Draft”** means any record or evidence of a credit  
16 card transaction.

17 F. **“Defendant(s)”** means all of the Individual Defendants and the  
18 Corporate Defendants, individually, collectively, or in any combination.

19 G. **“Financial Institution”** means any institution the business of which is  
20 engaging in financial activities as described in section 4(k) of the Bank Holding  
21 Company Act of 1956 (12 U.S.C. § 1843(k)). An institution that is significantly  
22 engaged in financial activities is a Financial Institution.

23 H. **“Individual Defendant(s)”** means Michael Force, Mary Dee,  
24 Morgan Johnson, Alan Moore, and Sean Brown.

25 I. **“Investment Opportunity”** means anything, tangible or intangible,  
26 that is offered, offered for sale, sold, or traded based wholly or in part on  
27 representations, either express or implied, about past, present, or future income,  
28 profit, or appreciation.

1 J. **“Merchant”** means (a) any Person or entity engaged in the sale or  
2 marketing of any goods or services, or soliciting a charitable contribution, or (b)  
3 any Person or entity who applies for or obtains Payment Processing services.

4 K. **“Merchant Account”** means any account with an Acquiring Bank or  
5 other Financial Institution, service provider, payment processor, independent sales  
6 organization, or other entity that enables an individual, a business, or other  
7 organization to accept payments of any kind.

8 L. **“Non-Settling Defendants”** means Digital Altitude LLC; Digital  
9 Altitude Limited; Aspire Processing LLC; Aspire Processing Limited; Aspire  
10 Ventures Ltd; Disc Enterprises Inc.; RISE Systems & Enterprise LLC (Utah);  
11 RISE Systems & Enterprise LLC (Nevada); Soar International Limited Liability  
12 Company; and The Upside, LLC; and each of their subsidiaries, affiliates,  
13 successors, and assigns, as well as Michael Force, Mary Dee, Sean Brown, Alan  
14 Moore, and Morgan Johnson.

15 M. **“Payment Processing”** means providing a Person, directly or  
16 indirectly, with the means used to charge or debit accounts through the use of any  
17 payment method or mechanism, including, but not limited to, remotely created  
18 payment orders, remotely created checks, ACH debits, or debit, credit, prepaid, or  
19 stored value cards. Whether accomplished through the use of software or  
20 otherwise, Payment Processing includes, among other things: (a) reviewing and  
21 approving Merchant applications for payment processing services; (b) providing  
22 the means to transmit sales transactions data from Merchants to Acquiring Banks  
23 or other Financial Institutions; (c) clearing, settling, or distributing proceeds of  
24 sales transactions from Acquiring Banks or Financial Institutions to Merchants; or  
25 (d) processing chargebacks or returned remotely created payment orders, remotely  
26 created checks, or ACH checks.

27 N. **“Person”** means a natural person, organization, or other legal entity,  
28 including a corporation, limited liability company, partnership, proprietorship,

1 association, cooperative, government or governmental subdivision or agency, or  
2 any other group or combination acting as an entity.

3 O. “**Receiver**” means the receiver appointed in Section IV. J of the  
4 Preliminary Injunction (Docket No. 111) and any deputy receivers that shall be  
5 named by the receiver.

6 P. “**Settling Defendant**” means Thermography for Life, LLC, also d/b/a  
7 Living Exceptionally, Inc., and each of its subsidiaries, affiliates, successors, and  
8 assigns.

9 **ORDER**

10 **I. PROHIBITIONS RELATED TO THE SALE OF BUSINESS**  
11 **COACHING PROGRAMS AND INVESTMENT OPPORTUNITIES**

12 IT IS ORDERED that Settling Defendant is permanently restrained and  
13 enjoined from:

14 A. Creating, advertising, marketing, promoting, offering for sale, or  
15 selling, or assisting others in creating, advertising, marketing, promoting, offering  
16 for sale, or selling any Business Coaching Program or any Investment Opportunity;

17 B. Holding, directly or through a third-Person, any ownership or other  
18 financial interest in any business entity that is creating, advertising, marketing,  
19 promoting, offering for sale, or selling, or that assists others in creating,  
20 advertising, marketing, promoting, offering for sale, or selling any Business  
21 Coaching Program, any Investment Opportunity, or any product to assist in the  
22 creation or development of a Business Coaching Program or an Investment  
23 Opportunity.

24 **II. PROHIBITIONS RELATED TO MERCHANT ACCOUNTS**

25 IT IS FURTHER ORDERED that Settling Defendant is permanently  
26 restrained and enjoined from:

27 A. Credit Card Laundering;

28

1 B. Making, or assisting others in making, directly or by implication, any  
2 false or misleading statement in order to obtain Payment Processing services;

3 C. Failing to disclose to an Acquiring Bank or other Financial Institution,  
4 service provider, payment processor, independent sales organization, or other entity  
5 that enables a Person to accept payments of any kind any material information  
6 related to a Merchant Account including, but not limited to, the identity of any  
7 owner, manager, director, or officer of the applicant for or holder of a Merchant  
8 Account, and any connection between an owner, manager, director, or officer of the  
9 applicant for or holder of a Merchant Account and any third person who has been  
10 or is placed in a Merchant Account monitoring program, had a Merchant Account  
11 terminated by a payment processor or a Financial Institution, or has been fined or  
12 otherwise disciplined in connection with a Merchant Account by a payment  
13 processor or a Financial Institution; and

14 D. Engaging in any tactics to circumvent fraud and risk monitoring  
15 programs established by any Financial Institution, Acquiring Bank, or the operators  
16 of any payment system, including, but not limited to, tactics such as balancing or  
17 distributing sales transactions among multiple Merchant Accounts or merchant  
18 billing descriptors; splitting a single sales transaction into multiple smaller  
19 transactions; or using a shell company to apply for a Merchant Account.

20 **III. PROHIBITION AGAINST MISREPRESENTATIONS**

21 IT IS FURTHER ORDERED that Settling Defendant, its officers, agents,  
22 employees, and attorneys, and all other Persons in active concert or participation  
23 with any of them, who receive actual notice of this Order, whether acting directly  
24 or indirectly, in connection with the advertising, marketing, promoting, or offering  
25 for sale of any good or service, are permanently restrained and enjoined from  
26 misrepresenting or assisting others in misrepresenting, expressly or by implication,  
27 any material fact, including, but not limited to:  
28

1           A. Consumers who purchase Settling Defendant's goods or services will  
2 earn or are likely to earn substantial income;

3           B. Consumers who purchase Settling Defendant's goods or services will  
4 receive business coaching that will provide what the consumers need to build a  
5 successful online business; and

6           C. Any other fact material to consumers concerning any good or service,  
7 such as: the total costs; any refund policy; any material restrictions, limitations, or  
8 conditions; or any material aspect of its performance, efficacy, nature, or central  
9 characteristics.

10 **IV. MONETARY JUDGMENT AND PARTIAL SUSPENSION**

11           A. Judgment in the amount of Fifty-Four Million Dollars (\$54,000,000)  
12 is entered in favor of the Commission against Settling Defendant as equitable  
13 monetary relief.

14           B. Immediately upon entry of this Order, Settling Defendant is ordered to  
15 surrender to the Commission all control, title, dominion, and interest in the  
16 following assets:

17           1. All interest the Settling Defendant has in funds in any accounts in the  
18 name of the Corporate Defendants (including the approximately \$90,000 contents  
19 of two Thermography for Life, LLC bank accounts, which funds are currently held  
20 by the Receiver);

21           2. All interest the Settling Defendant has in funds in any accounts in the  
22 name of all other Receivership Entities;

23           3. All cash held by the Receiver;

24           4. All assets owned by the Corporate Defendants and the Receivership  
25 Entities, including any real, personal, or intellectual property, chattel, goods,  
26 instruments, equipment, fixtures, general intangibles, effects, leaseholds, contracts,  
27 mail, or other deliveries, shares or stock, securities, inventory, checks, notes,  
28 accounts, credits, receivables, insurance policies, lines of credit, cash, trusts

1 (including asset protection trusts), lists of consumer names and reserve funds or  
2 any other accounts associated with any payments processed by, or on behalf of,  
3 any Corporate Defendants;

4 C. To the extent they are not already in the possession of the Receiver,  
5 Settling Defendant shall deliver the assets identified in Subsection B above to the  
6 Receiver's possession within 7 days of the entry of this Order.

7 D. The Receiver shall, as soon as practicable, commence the sale of any  
8 unliquidated assets surrendered pursuant to this Order using a commercially  
9 reasonable procedure. The Receiver shall hold the surrendered assets, and the  
10 proceeds from the sale of the unliquidated assets, for future transfer in accordance  
11 with further instructions from the Court.

12 E. Upon completion of all of the transfers listed above, the remainder of  
13 the judgment is suspended, subject to Subsections F through N, below.

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

18 1. the Financial Statement of Thermography for Life, LLC, also d/b/a  
19 Living Exceptionally, Inc., signed by Defendant Dee on February 20, 2018,  
20 including the attachments;

21 2. the documentation submitted via secure file transfer from Settling  
22 Defendant's counsel Michael Brandwein to Commission counsel Andrew Hudson  
23 dated February 26, 2018, including Thermography for Life, LLC, also d/b/a Living  
24 Exceptionally, Inc. bank statements;

25 3. the documentation submitted via secure file transfer from Settling  
26 Defendant's counsel Michael Brandwein to Commission counsel Andrew Hudson  
27 dated February 28, 2018, including additional financial documents from Settling  
28 Defendant; and

1           4.     the documentation submitted via email from Settling Defendant's  
2 counsel Andrew Gordon to Commission counsel Andrew Hudson, Laura Basford,  
3 and Jody Goodman on May 30, 2018 at 12:39 PM Eastern time, regarding Settling  
4 Defendant.

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

9           H.     If the suspension of the judgment is lifted, the judgment becomes  
10 immediately due in the amount specified in Subsection A above (which the parties  
11 stipulate only for purposes of this Section represents the consumer injury alleged in  
12 the Complaint), less any payment previously made pursuant to this Section, and  
13 any payment(s) made by or on behalf of any Non-Settling Defendant to the  
14 Commission pursuant to a Final Order in this action as to such Non-Settling  
15 Defendant, plus interest computed from the date of entry of this Order.

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

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

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

28

1 L. Settling Defendant acknowledges that its Taxpayer Identification  
2 Number (Employer Identification Number), which Settling Defendant previously  
3 submitted to the Commission, may be used for collecting and reporting on any  
4 delinquent amount arising out of this Order, in accordance with 31 U.S.C. §7701.

5 M. All money paid to the Commission pursuant to this Order may be  
6 deposited into a fund administered by the Commission or its designee to be used  
7 for equitable relief, including consumer redress and any attendant expenses for the  
8 administration of any redress fund. If a representative of the Commission decides  
9 that direct redress to consumers is wholly or partially impracticable or money  
10 remains after redress is completed, the Commission may apply any remaining  
11 money for such other equitable relief (including consumer information remedies)  
12 as it determines to be reasonably related to Defendants' practices alleged in the  
13 Complaint. Any money not used for such equitable relief is to be deposited to the  
14 U.S. Treasury as disgorgement. Settling Defendant has no right to challenge any  
15 actions the Commission or its representatives may take pursuant to this Subsection.

16 N. The asset freeze is modified to permit the payments identified in  
17 subpart B of this Section. Upon completion of all such payments, the asset freeze is  
18 dissolved as to Settling Defendant.

19 **V. CUSTOMER INFORMATION**

20 IT IS FURTHER ORDERED that Settling Defendant, its officers, agents,  
21 employees, and attorneys, and all other Persons in active concert or participation  
22 with any of them, who receive actual notice of this Order, whether acting directly  
23 or indirectly, are permanently restrained and enjoined from:

24 A. Failing to provide sufficient customer information to enable the  
25 Commission to efficiently administer consumer redress. If a representative of the  
26 Commission requests in writing any information related to redress, Settling  
27 Defendant must provide it, in the form prescribed by the Commission, within 14  
28 days; and

1 B. Disclosing, using, or benefitting from customer information, including  
2 the name, address, birth date, telephone number, email address, credit card number,  
3 bank account number, Social Security number, other identifying information, or  
4 any data that enables access to a customer's account (including a credit card, bank  
5 account, or other financial account), that any Defendant obtained prior to entry of  
6 this Order in connection with any activity that pertains to the sale of money-  
7 making opportunities and/or purported educational or coaching products or  
8 services provided online; and

9 C. Failing to destroy such customer information in all forms in their  
10 possession, custody, or control within 30 days after receipt of written direction to  
11 do so from a representative of the Commission.

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

## 15 **VI. COOPERATION**

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

## 25 **VII. RECEIVERSHIP TERMINATION**

26 IT IS FURTHER ORDERED that ten days after entry of this Order, the  
27 receivership over Thermography for Life, LLC, also d/b/a Living Exceptionally,  
28 Inc. shall be dissolved and the Receiver discharged as to Thermography for Life,

1 LLC, also d/b/a Living Exceptionally, Inc. Any party or the Receiver may request  
2 that the Court extend the receivership over Thermography for Life, LLC, also d/b/a  
3 Living Exceptionally, Inc., for good cause.

4 **VIII. ORDER ACKNOWLEDGMENTS**

5 IT IS FURTHER ORDERED that Settling Defendant obtain  
6 acknowledgments of receipt of this Order:

7 A. Settling Defendant, within 7 days of entry of this Order, must submit  
8 to the Commission an acknowledgment of receipt of this Order sworn under  
9 penalty of perjury.

10 B. For 20 years after entry of this Order, Settling Defendant must deliver  
11 a copy of this Order to: (1) all principals, officers, directors, and LLC managers  
12 and members; (2) all employees having managerial responsibilities for conduct  
13 related to the subject matter of the Order and all agents and representatives who  
14 participate in conduct related to the subject matter of the Order; and (3) any  
15 business entity resulting from any change in structure as set forth in the Section  
16 titled Compliance Reporting. Delivery must occur within seven (7) calendar days  
17 of entry of this Order for current personnel. For all others, delivery must occur  
18 before they assume their responsibilities.

19 C. From each individual or entity to which Settling Defendant delivered  
20 a copy of this Order, Settling Defendant must obtain, within 30 days, a signed and  
21 dated acknowledgment of receipt of this Order.

22 **IX. COMPLIANCE REPORTING**

23 IT IS FURTHER ORDERED that Settling Defendant make timely  
24 submissions to the Commission:

25 A. One year after entry of this Order, Settling Defendant must submit a  
26 compliance report, sworn under penalty of perjury:

27 1. Settling Defendant must: (a) identify the primary physical, postal, and  
28 email address and telephone number, as designated points of contact, which

1 representatives of the Commission may use to communicate with Settling  
2 Defendant; (b) identify all of Settling Defendant's businesses by all of their names,  
3 telephone numbers, and physical, postal, email, and Internet addresses; (c) describe  
4 the activities of each business, including the goods and services offered, the means  
5 of advertising, marketing, and sales, and the involvement of any other Defendant;  
6 (d) describe in detail whether and how Settling Defendant is in compliance with  
7 each Section of this Order; and (e) provide a copy of each Order Acknowledgment  
8 obtained pursuant to this Order, unless previously submitted to the Commission.

9 B. For 20 years after entry of this Order, Settling Defendant must submit  
10 a compliance notice, sworn under penalty of perjury, within 14 days of any change  
11 in the following:

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

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

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

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

1 DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to:  
2 Associate Director for Enforcement, Bureau of Consumer Protection, Federal  
3 Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The  
4 subject line must begin: FTC v. Digital Altitude, et al. (Thermography), No.  
5 X180021.

6 **X. RECORDKEEPING**

7 IT IS FURTHER ORDERED that Settling Defendant must create certain  
8 records for 20 years after entry of the Order, and retain each such record for 5  
9 years. Specifically, Settling Defendant must create and retain the following  
10 records:

11 A. accounting records showing the revenues from all goods or services  
12 sold;

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

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

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

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

22 **XI. COMPLIANCE MONITORING**

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

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

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

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

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

17 | **XII. RETENTION OF JURISDICTION**

18 |       IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this  
19 | matter for purposes of construction, modification, and enforcement of this Order.

20 |  
21 | IT IS SO ORDERED.

22 |  
23 | Dated: March 4, 2019



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24 | JOHN A. KRONSTADT  
25 | UNITED STATES DISTRICT JUDGE