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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

CD CAPITAL INVESTMENTS, LLC,  
et al.,

Defendants.

Case No. 8:14-cv-01033-JLS-RNB

**STIPULATED MODIFIED  
PERMANENT INJUNCTION  
AND ORDER FOR EQUITABLE  
MONETARY RELIEF AS TO  
DEFENDANT TUAN D. DUONG**

This matter comes before the Court on Plaintiff Federal Trade Commission’s (“FTC” or “Commission”) stipulated motion to modify the Permanent Injunction and Order for Equitable Monetary Relief entered on August 22, 2016 (“Original Final Order”) [D.E. #172]. The FTC requests that the Court modify the Original Final Order as to Defendant Tuan D. Duong (“Duong”). Upon due consideration, the Court hereby GRANTS the FTC’s motion. IT IS ORDERED as follows:

**FINDINGS**

1. The Commission and Defendant Duong have stipulated to the entry of this Modified Permanent Injunction and Order for Equitable Monetary Relief (“Modified Final Order”), specifically including but not limited to these findings.
2. The Court has jurisdiction of this matter for purposes of modification of the Original Final Order, among other purposes. D.E. #172 at 16 ¶ XII.
3. Defendant Tuan D. Duong received actual notice of the Original Final Order

1 on or about August 22, 2016, when the Court issued it and caused it to be  
2 served upon his counsel of record.

3 4. The Original Final Order was clear and definite.

4 5. Defendant Duong did not move for clarification of the Original Final Order  
5 after its entry.

6 6. After receiving actual notice of the Original Final Order, Defendant Duong  
7 violated its clear and definite terms in numerous respects.

8 7. First, directly or through Impetus Enterprise, Inc., Defendant Duong violated  
9 Paragraph I of the Original Final Order by promoting secured or unsecured  
10 debt relief services, directing the promotion and sale of such services, and  
11 assisting others engaged in promoting and selling such services.

12 8. Second, in promoting, telemarketing, and selling a service, directly or  
13 through Impetus Enterprise, Inc., Defendant Duong misrepresented that  
14 consumers who pay for debt relief services would have their student loan  
15 payments reduced or forgiven or were likely to do so. Defendant Duong  
16 also assisted others in making this misrepresentation.

17 9. This misrepresentation was material to consumers, false and unsubstantiated,  
18 and a deceptive practice.

19 10. Third, Defendant Duong violated Paragraph IV of the Original Final Order  
20 by failing to pay \$1,784,864 to the FTC within seven days of entry of the  
21 Original Final Order, *i.e.*, by August 29, 2016.

22 11. Fourth, Defendant Duong violated Paragraph VII of the Original Final Order  
23 by failing to submit a sworn acknowledgment of receipt of the Original Final  
24 Order to the FTC within seven days of entry of the Order, *i.e.*, by August 29,  
25 2016.

26 12. Fifth, Defendant Duong violated Paragraph VIII of the Original Final Order  
27 by failing to submit a sworn report disclosing his businesses' marketing  
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1 activities to the FTC one year after entry of the Original Final Order, *i.e.*, on  
2 August 22, 2017.

3 13. Additionally, after the entry of the Original Final Order, Defendant Duong  
4 engaged in acts or practices that violated the FTC Act, 15 U.S.C. § 41 *et*  
5 *seq.*, as well as the Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310.

6 14. On November 6, 2018, the FTC filed a Complaint in this Court in the case of  
7 *FTC v. Impetus Enterprise, Inc.*, Case No. 8:18-cv-01987-JLS-KES (C.D.  
8 Cal.) (“Complaint”), charging Defendant Duong and others with violating  
9 both the FTC Act and the TSR in connection with the deceptive marketing  
10 and sale of student loan debt relief services.

11 15. Defendant Duong’s acts or practices in connection with the marketing and  
12 telemarketing of debt relief services described in Paragraphs 8-9 above were  
13 abusive telemarketing acts or practices that violated Section 5(a) of the FTC  
14 Act, 15 U.S.C. § 45(a), and Section 310.3(a)(2)(x) of the TSR, 16 C.F.R. §  
15 310.3(a)(2)(x), as alleged in the Complaint.

16 16. Moreover, in numerous instances, directly or through Impetus Enterprise,  
17 Inc., Defendant Duong requested and received payment of a fee or  
18 consideration for debt relief services before: (a) Duong or Impetus  
19 Enterprise, Inc. renegotiated, settled, reduced, or otherwise altered the terms  
20 of at least one debt pursuant to a settlement agreement, debt management  
21 plan, or other such valid contractual agreement executed by the customer;  
22 and (b) the customer made at least one payment pursuant to that settlement  
23 agreement, debt management plan, or other valid contractual agreement  
24 between the customer and the creditor.

25 17. Defendant Duong’s acts or practices described in Paragraph 16 above,  
26 challenged in the Complaint, were abusive telemarketing acts or practices  
27 that violated Section 310.4(a)(5)(i) of the TSR, 16 C.F.R. § 310.4(a)(5)(i), as  
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1           alleged in the Complaint.

2 18. Pursuant to Section 3(c) of the Telemarketing Act, 15 U.S.C. § 6102(c), and  
3 Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), Defendant Duong's  
4 violations of the TSR constitute unfair or deceptive acts or practices in or  
5 affecting commerce violating Section 5(a) of the FTC Act, 15 U.S.C. §  
6 45(a), as alleged in the Complaint.

7 19. Directly or through Impetus Enterprise, Inc., Defendant Duong's unlawful  
8 marketing and sale of debt relief services resulted in at least \$11,000,215.25  
9 in injury to consumers.

10 20. The Original Final Order has not achieved its purpose of protecting  
11 consumers from Defendant Duong's deceptive marketing practices. His  
12 violations of the Original Final Order, the FTC Act, and the TSR present  
13 sufficient changed circumstances to warrant entry of this Modified Final  
14 Order pursuant to Federal Rule of Civil Procedure 60(b).

15 21. Banning Defendant Duong from participating or Assisting Others in  
16 Telemarketing is necessary to protect consumers.

17 22. Absent modification, Defendant Duong will likely violate the Original Final  
18 Order and Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), in the future.

19 23. The equities weigh in favor of granting a modified permanent injunction,  
20 and that such an injunction is in the public interest.

21 24. Because there is no just reason for delay, the Court expressly directs entry of  
22 this Stipulated Modified Permanent Injunction and Order for Equitable  
23 Monetary Relief.

24 25. This Stipulated Modified Permanent Injunction and Order for Equitable  
25 Monetary Relief is in addition to, and not in lieu of, any other civil or  
26 criminal remedies that may be provided by law.

27 26. Defendant Duong waives and releases any claim that he may have against  
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1 the Commission, the Receiver, and their agents that relates to this action.  
2 Defendant Duong waives and releases any claim that he may have under the  
3 Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution  
4 of this action through the date of this Order, and agrees to bear his own costs  
5 and attorney fees.

- 6 27. Defendant Duong and the Commission waive all rights to appeal or  
7 otherwise challenge or contest the validity of this Order.

### 8 **DEFINITIONS**

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

10 A. **“Assisting Others”** includes:

- 11 1. performing customer service functions, including receiving or  
12 responding to consumer complaints;
- 13 2. formulating or providing, or arranging for the formulation or  
14 provision of, any advertising or marketing material, including any  
15 telephone sales script, direct mail solicitation, or the design, text, or  
16 use of images of any Internet website, email, or other electronic  
17 communication;
- 18 3. formulating or providing, or arranging for the formulation or  
19 provision of, any marketing support material or service, including web  
20 or Internet Protocol addresses or domain name registration for any  
21 Internet websites, affiliate marketing services, or media placement  
22 services;
- 23 4. providing names of, or assisting in the generation of, potential  
24 customers;
- 25 5. performing marketing, billing, or payment services of any kind; or  
26 6. acting or serving as an owner, officer, director, manager, or principal  
27 of any entity.  
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1 B. **“Defendant”** means Tuan Dinh Duong, also known as Thomas Duong or  
2 Thomas Dinh.

3 C. **“Financial Product or Service”** means any product, service, plan, or  
4 program represented, expressly or by implication, to:

- 5 1. provide any consumer, arrange for any consumer to receive, or assist  
6 any consumer in receiving, a loan or other extension of credit;
- 7 2. provide any consumer, arrange for any consumer to receive, or assist  
8 any consumer in receiving, credit, debit, or stored value cards;
- 9 3. improve, repair, or arrange to improve or repair, any consumer’s  
10 credit record, credit history, or credit rating; or
- 11 4. provide advice or assistance to improve any consumer’s credit record,  
12 credit history, or credit rating.

13 D. **“Person”** means any individual, group, unincorporated association, limited  
14 or general partnership, corporation, or other business entity.

15 E. **“Receiver”** means Krista L. Freitag, whom this Court appointed as Receiver  
16 in this case on November 13, 2018.

17 F. **“Secured or Unsecured Debt Relief Product or Service”** means:

- 18 1. with respect to any mortgage, loan, debt, or obligation between a  
19 Person and one or more secured or unsecured creditors or debt  
20 collectors, any product, service, plan, or program represented,  
21 expressly or by implication, to:
  - 22 a. stop, prevent, or postpone any mortgage or deed of foreclosure  
23 sale for a Person’s dwelling, any other sale of collateral, any  
24 repossession of a Person’s dwelling or other collateral, or  
25 otherwise save a Person’s dwelling or other collateral from  
26 foreclosure or repossession;
  - 27 b. negotiate, obtain, or arrange a modification, or renegotiate,  
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1 settle, or in any way alter any terms of the mortgage, loan, debt,  
2 or obligation, including a reduction in the amount of interest,  
3 principal balance, monthly payments, or fees owed by a Person  
4 to a secured or unsecured creditor or debt collector;

- 5 c. obtain any forbearance or modification in the timing of  
6 payments from any secured or unsecured holder or servicer of  
7 any mortgage, loan, debt, or obligation;
- 8 d. negotiate, obtain, or arrange any extension of the period of time  
9 within which a Person may (i) cure his or her default on the  
10 mortgage, loan, debt, or obligation, (ii) reinstate his or her  
11 mortgage, loan, debt, or obligation, (iii) redeem a dwelling or  
12 other collateral, or (iv) exercise any right to reinstate the  
13 mortgage, loan, debt, or obligation or redeem a dwelling or  
14 other collateral;
- 15 e. obtain any waiver of an acceleration clause or balloon payment  
16 contained in any promissory note or contract secured by any  
17 dwelling or other collateral; or
- 18 f. negotiate, obtain, or arrange (i) a short sale of a dwelling or  
19 other collateral, (ii) a deed-in-lieu of foreclosure, or (iii) any  
20 other disposition of a mortgage, loan, debt, or obligation other  
21 than a sale to a third party that is not the secured or unsecured  
22 loan holder.

23 The foregoing shall include any manner of claimed assistance,  
24 including auditing or examining a Person's application for the  
25 mortgage, loan, debt, or obligation.

- 26 2. With respect to any loan, debt, or obligation between a Person and one  
27 or more unsecured creditors or debt collectors, any product, service,  
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1 plan, or program represented, expressly or by implication, to:

- 2 a. repay one or more unsecured loans, debts, or obligations; or  
3 b. combine unsecured loans, debts, or obligations into one or more  
4 new loans, debts, or obligations.

5 G. **“Telemarketing”** means any plan, program, or campaign which is  
6 conducted to induce the purchase of goods or services by use of one or more  
7 telephones, and which involves a telephone call, whether or not covered by  
8 the TSR.

9 **ORDER**

10 **I. MODIFICATION OF ORIGINAL FINAL ORDER**

11 IT IS THEREFORE ORDERED that, solely as to Defendant Duong, this  
12 Modified Final Order supersedes the Original Final Order, *i.e.*, the Permanent  
13 Injunction and Order for Equitable Monetary Relief as to Defendants CD Capital  
14 Investments, LLC, CD Capital, LLC, GDS Information Services, Inc., Christian D.  
15 Quezada, and Tuan D. Duong, entered on August 22, 2016 [D.E. #172], except for  
16 Sections IV (“Restitution”) and V (“Additional Monetary Provisions”) thereof,  
17 which shall remain in full force and effect. The entirety of the Original Final  
18 Order shall remain in full force and effect as to CD Capital Investments, LLC, CD  
19 Capital, LLC, GDS Information Services, Inc., and Christian D. Quezada.

20 **II. BAN ON TELEMARKETING**

21 IT IS FURTHER ORDERED that Defendant Duong is permanently  
22 restrained and enjoined from participating or Assisting Others in Telemarketing,  
23 whether directly or through an intermediary.

24 **III. BAN ON SECURED AND UNSECURED**  
25 **DEBT RELIEF PRODUCTS AND SERVICES**

26 IT IS FURTHER ORDERED that Defendant Duong is permanently  
27 restrained and enjoined from advertising, marketing, promoting, offering for sale,  
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1 or selling, or Assisting Others in the advertising, marketing, promoting, offering  
2 for sale, or selling, of any Secured or Unsecured Debt Relief Product or Service.

3 **IV. PROHIBITION AGAINST MISREPRESENTATIONS**  
4 **RELATING TO FINANCIAL PRODUCTS AND SERVICES**

5 IT IS FURTHER ORDERED that Defendant Duong, Defendant's agents,  
6 employees, and attorneys, and all other Persons in active concert or participation  
7 with any of them, who receive actual notice of this Order, whether acting directly  
8 or indirectly, in connection with the advertising, marketing, promoting, offering for  
9 sale, or selling of any Financial Product or Service, are permanently restrained and  
10 enjoined from misrepresenting, or Assisting Others in misrepresenting, expressly  
11 or by implication:

12 A. the terms or rates that are available for any loan or other extension of credit,  
13 including:

- 14 1. closing costs or other fees;
- 15 2. the payment schedule, monthly payment amount(s), any  
16 balloon  
17 payment, or other payment terms;
- 18 3. the interest rate(s), percentage rate(s), or finance charge(s), and  
19 whether they are fixed or adjustable;
- 20 4. the loan amount, credit amount, draw amount, or outstanding balance;  
21 the loan term, draw period, or maturity; or any other term of credit;
- 22 5. the amount of funds to be disbursed to the borrower out of the  
23 proceeds, or the amount of funds to be disbursed on behalf of the  
24 borrower to any third parties;
- 25 6. whether any specified minimum payment amount covers both interest  
26 and principal, and whether the credit has or can result in negative  
27 amortization; or  
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1           7.     that the credit does not have a prepayment penalty or whether  
2                 subsequent refinancing may trigger a prepayment penalty and/or other  
3                 fees;

4 B.     the savings associated with the loan or other extension of credit;

5 C.     the ability to improve or otherwise affect a consumer's credit record, credit  
6             history, credit rating, or ability to obtain credit, including that a consumer's  
7             credit record, credit history, credit rating, or ability to obtain credit can be  
8             improved by permanently removing current, accurate negative information  
9             from the consumer's credit record or history;

10 D.     that a consumer will receive legal representation;

11 E.     its total costs; any material restrictions, limitations, or conditions; or any  
12             material aspect of its performance, efficacy, nature, or central  
13             characteristics; or

14 F.     any other fact material to consumers concerning any good or service.

15                   **V. PROHIBITION AGAINST MISREPRESENTATIONS**  
16                   **RELATING TO ANY PRODUCTS OR SERVICES**

17           IT IS FURTHER ORDERED that Defendant Duong, Defendant's agents,  
18 employees, and attorneys, and all other Persons in active concert or participation  
19 with any of them, who receive actual notice of this Order, whether acting directly  
20 or indirectly, in connection with the advertising, marketing, promoting, offering for  
21 sale, or selling of any product, service, plan, or program, are permanently  
22 restrained and enjoined from misrepresenting, or Assisting Others in  
23 misrepresenting, expressly or by implication:

24 A.     any material aspect of the nature or terms of any refund, cancellation,  
25             exchange, or repurchase policy, including the likelihood of a consumer  
26             obtaining a full or partial refund, or the circumstances in which a full or  
27             partial refund will be granted to the consumer;

- 1 B. that any Person is affiliated with, endorsed or approved by, or otherwise  
2 connected to any other Person; government entity; public, non-profit, or  
3 other non-commercial program; or any other program;
- 4 C. the nature, expertise, position, or job title of any Person who provides any  
5 product, service, plan, or program;
- 6 D. that any Person providing a testimonial has purchased, received, or used the  
7 product, service, plan, or program;
- 8 E. that the experience represented in a testimonial of the product, service, plan,  
9 or program represents the Person's actual experience resulting from the use  
10 of the product, service, plan, or program under the circumstances depicted in  
11 the advertisement;
- 12 F. its total costs; any material restrictions, limitations, or conditions; or any  
13 material aspect of its performance, efficacy, nature, or central  
14 characteristics; or
- 15 G. any other fact material to consumers concerning any good or service.

16 **VI. PROHIBITION AGAINST UNSUBSTANTIATED CLAIMS**

17 IT IS FURTHER ORDERED that Defendant Duong, Defendant's agents,  
18 employees, and attorneys, and all other Persons in active concert or participation  
19 with any of them, who receive actual notice of this Order, whether acting directly  
20 or indirectly, in connection with the sale of any product or service, are permanently  
21 restrained and enjoined from making any representation, expressly or by  
22 implication, about the benefits, performance, or efficacy of any product or service,  
23 unless the representation is non-misleading, and, at the time such representation is  
24 made, Defendant possesses and relies upon competent and reliable evidence that is  
25 sufficient in quality and quantity based on standards generally accepted in the  
26 relevant fields, when considered in light of the entire body of relevant and reliable  
27 evidence, to substantiate that the representation is true.

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**VII. MONETARY JUDGMENT**

IT IS FURTHER ORDERED that judgment in the amount of Eleven Million Two Hundred and Fifteen Dollars and Twenty-Five Cents (\$11,000,215.25) is entered in favor of the Commission against Defendant Duong as compensatory contempt relief. Defendant Duong is ordered to pay the FTC this amount immediately upon the entry of this Order.

**VIII. ADDITIONAL MONETARY PROVISIONS**

IT IS FURTHER ORDERED that:

- A. Defendant relinquishes dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.
- B. The facts alleged in the Complaint in the case of *FTC v. Impetus Enterprise, Inc.*, Case No. 8:18-cv-01987-JLS-KES (C.D. Cal.), will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission, including in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.
- C. The facts alleged in the Complaint in the case of *FTC v. Impetus Enterprise, Inc.*, Case No. 8:18-cv-01987-JLS-KES (C.D. Cal.) establish all elements necessary to sustain an action by the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.
- D. Defendant acknowledges that his Taxpayer Identification Numbers (Social Security Numbers or Employer Identification Numbers), which Defendant must submit to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31

1 U.S.C. §7701.

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

14 F. The asset freeze as to Defendant Duong existing pursuant to the Court's  
15 April 2, 2019 Superseding Second Preliminary Injunction is dissolved.

16 **IX. CUSTOMER INFORMATION**

17 IT IS FURTHER ORDERED that Defendant Duong, Defendant's agents,  
18 employees, and attorneys, and all other Persons in active concert or participation  
19 with any of them, who receive actual notice of this Order, whether acting directly  
20 or indirectly, are permanently restrained and enjoined from directly or indirectly:

21 A. failing to provide sufficient customer information to enable the Commission  
22 to efficiently administer consumer redress. If a representative of the  
23 Commission requests in writing any information related to redress,  
24 Defendant must provide it, in the form prescribed by the Commission,  
25 within 14 days.

26 B. disclosing, using, or benefitting from customer information, including the  
27 name, address, telephone number, email address, social security number,  
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1 other identifying information, or any data that enables access to a customer's  
2 account (including a credit card, bank account, or other financial account),  
3 that Defendant Duong or any of his co-defendants obtained prior to entry of  
4 this Order in connection with the marketing and sale of debt relief services;  
5 and

6 C. failing to destroy such customer information in all forms in their possession,  
7 custody, or control within 30 days after receipt of written direction to do so  
8 from a representative of the Commission.

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

#### 12 **X. COOPERATION**

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

#### 23 **XI. ORDER ACKNOWLEDGMENT**

24 IT IS FURTHER ORDERED that Defendant Duong obtain  
25 acknowledgments of receipt of this Order:

26 A. within 7 days of entry of this Order, Defendant Duong must submit to the  
27 Commission an acknowledgment of receipt of this Order sworn under  
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1 penalty of perjury.

2 B. for 20 years after entry of this Order, Defendant Duong, for any business  
3 that he, individually or collectively with any other co-defendants in this case,  
4 is the majority owner or controls directly or indirectly, must deliver a copy  
5 of this Order to:

6 1. all principals, officers, directors, and LLC managers and members;

7 2. all employees having managerial responsibilities for promoting or  
8 offering for sale any good or service, and all agents and  
9 representatives who participate in promoting or offering for sale any  
10 good or service; and

11 3. any business entity resulting from any change in structure as set forth  
12 in the Section titled Compliance Reporting. Delivery must occur  
13 within 7 days of entry of this Order for current Personnel. For all  
14 others, delivery must occur before they assume their responsibilities.

15 C. In any other business, such as one in which Defendant Duong is an  
16 employee without any ownership or control, Defendant must deliver a copy  
17 of this Order to all principals and managers of the business before  
18 participating in promoting or offering for sale any good or service;

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

## 22 **XII. COMPLIANCE REPORTING**

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

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

27 1. Defendant must: (a) identify the primary physical, postal, and email  
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1 address and telephone number, as designated points of contact, which  
2 representatives of the Commission may use to communicate with  
3 Defendant; (b) identify all of Defendant's businesses by all of their  
4 names, telephone numbers, and physical, postal, email, and Internet  
5 addresses; (c) describe the activities of each business, including the  
6 goods and services offered, the means of advertising, marketing, and  
7 sales, and the involvement of any co-defendants in this case (which  
8 Defendant must describe if he knows or should know due to his own  
9 involvement); (d) describe in detail whether and how Defendant is in  
10 compliance with each Section of this Order; and (e) provide a copy of  
11 each Order Acknowledgment obtained pursuant to this Order, unless  
12 previously submitted to the Commission.

13 2. Additionally, Defendant must: (a) identify all telephone numbers and  
14 all physical, postal, email and Internet addresses, including all  
15 residences; (b) identify all business activities, including any business  
16 for which Defendant performs services whether as an employee or  
17 otherwise and any entity in which Defendant has any ownership  
18 interest; and (c) describe in detail Defendant's involvement in each  
19 such business, including title, role, responsibilities, participation,  
20 authority, control, and any ownership.

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

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

- 3 2. Additionally, Defendant must report any change in: (a) name,  
4 including aliases or fictitious name, or residence address; or (b) title or  
5 role in any business activity, including any business for which  
6 Defendant performs services whether as an employee or otherwise  
7 and any entity in which Defendant has any ownership interest, and  
8 identify the name, physical address, and any Internet address of the  
9 business or entity.

10 C. Defendant Duong must submit to the Commission notice of the filing of any  
11 bankruptcy petition, insolvency proceeding, or similar proceeding by or  
12 against him within 14 days of its filing.

13 D. Any submission to the Commission required by this Order to be sworn under  
14 penalty of perjury must be true and accurate and comply with 28 U.S.C. §  
15 1746, such as by concluding: “I declare under penalty of perjury under the  
16 laws of the United States of America that the foregoing is true and correct.  
17 Executed on: \_\_\_\_\_” and supplying the date, signatory’s full name, title (if  
18 applicable), and signature.

19 E. Unless otherwise directed by a Commission representative in writing, all  
20 submissions to the Commission pursuant to this Order must be emailed to  
21 DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service)  
22 to: Associate Director for Enforcement, Bureau of Consumer Protection,  
23 Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington,  
24 DC 20580. The subject line must begin: FTC v. Duong, x140035.

### 25 **XIII. RECORDKEEPING**

26 IT IS FURTHER ORDERED that Defendant Duong must create certain  
27 records for 20 years after entry of the Order, and retain each such record for 5  
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1 years. Specifically, for any business that Defendant, individually or collectively  
2 with any other co-defendants in this case, is a majority owner or controls directly  
3 or indirectly, must create and retain the following records:

- 4 A. accounting records showing the revenues from all goods or services sold;
- 5 B. Personnel records showing, for each Person providing services, whether as  
6 an employee or otherwise, that Person's: name; addresses; telephone  
7 numbers; job title or position; dates of service; and (if applicable) the reason  
8 for termination;
- 9 C. records of all consumer complaints and refund requests, whether received  
10 directly or indirectly, such as through a third party, and any response;
- 11 D. all records necessary to demonstrate full compliance with each provision of  
12 this Order, including all submissions to the Commission; and
- 13 E. a copy of each unique advertisement or other marketing material.

#### 14 **XIV. COMPLIANCE MONITORING**

15 IT IS FURTHER ORDERED that, for the purpose of monitoring Defendant  
16 Duong's compliance with this Order:

- 17 A. Within 14 days of receipt of a written request from a representative of the  
18 Commission, Defendant Duong must: submit additional compliance reports  
19 or other requested information, which must be sworn under penalty of  
20 perjury; appear for depositions; and produce documents for inspection and  
21 copying. The Commission is also authorized to obtain discovery, without  
22 further leave of court, using any of the procedures prescribed by Federal  
23 Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33,  
24 34, 36, 45, and 69.
- 25 B. For matters concerning this Order, the Commission is authorized to  
26 communicate directly with Defendant. Defendant must permit  
27 representatives of the Commission to interview any employee or other  
28

1 Person affiliated with Defendant who has agreed to such an interview. The  
2 Person interviewed may have counsel present.

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

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

13 **XV. RETENTION OF JURISDICTION**

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

16  
17  
18 **IT IS SO ORDERED.**

19  
20 **Date:** May 29, 2019

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23 **THE HONORABLE JOSEPHINE L. STATON**  
24 **UNITED STATES DISTRICT JUDGE**