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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Federal Trade Commission,

Plaintiff,

vs.

Hite Media Group LLC, et al.,

Defendants.

No. CV-18-02221-PHX-SPL

ORDER

Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), filed its Complaint for Permanent Injunction and Other Equitable Relief (“Complaint”) pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b). The Commission and Defendant Michael De Rosa stipulate to the entry of this Stipulated Order for Permanent Injunction and Monetary Judgment as to Michael De Rosa (“Order”) to resolve all matters in dispute in this action between them (Doc. 56).

IT IS THEREFORE ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants participated in deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, in the marketing of Grant Products or Services.
3. Michael De Rosa neither admits nor denies any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this

1 action, Michael De Rosa admits the facts necessary to establish jurisdiction.

2 4. Michael De Rosa waives any claim he may have under the Equal Access to
3 Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through
4 the date of this Order, and agrees to bear his own costs and attorney fees.

5 5. Michael De Rosa and the Commission waive all rights to appeal or otherwise
6 challenge or contest the validity of this Order.

7 **DEFINITIONS**

8 For the purpose of this Order, the following definitions shall apply:

9 A. **“ACH Debit”** means any completed or attempted debit to a Person’s account at
10 a financial institution that is processed electronically through the Automated
11 Clearing House Network.

12 B. **“Acquirer”** means a business organization, financial institution, or an agent of
13 a business organization or financial institution that has authority from an
14 organization that operates or licenses a credit card system (e.g. VISA,
15 MasterCard, American Express, and Discover) to authorize Merchants to accept,
16 transmit, or process payment by credit card through the credit card system for
17 money, goods or services, or anything else of value.

18 C. **“Asset”** means any legal or equitable interest in, right to, or claim to, any real,
19 personal, or intellectual property of any Corporate Defendant or Individual
20 Defendant, or held for the benefit of any Corporate Defendant or Individual
21 Defendant, wherever located, including, but not limited to, chattel, goods,
22 instruments, equipment, fixtures, general intangibles, effects, leaseholds,
23 contracts, mail or other deliveries, shares of stock, securities, inventory, checks,
24 notes, accounts, credits, receivables (as those terms are defined in the Uniform
25 Commercial Code), cash, trusts, including, but not limited to, any trust held for
26 the benefit of any of the Defendants, and reserve funds or any other accounts
27 associated with payments processed by, or on behalf of, any of the Defendants,
28 including, but not limited to, reserve funds held by Payment Processors or

1 financial institutions.

2 D. **“Corporate Defendants”** means Hite Media Group, LLC; 2 Unique, LLC;
3 Amazing App, LLC; Premium Business Solutions, LLC; Premium Domain
4 Services, LLC; and each of their subsidiaries, affiliates, successors, and assigns.

5 E. **“Defendants”** means the Corporate Defendants and Individual Defendants,
6 individually, collectively, or in any combination.

7 F. **“Document”** is synonymous in meaning and equal in scope to the usage of
8 “document” and “electronically stored information” in Federal Rule of Civil
9 Procedure 34(a), Fed. R. Civ. P. 34(a), and includes writings, drawings, graphs,
10 charts, photographs, sound and video recordings, images, Internet sites, web
11 pages, websites, electronic correspondence, including e-mail and instant
12 messages, contracts, accounting data, advertisements, FTP Logs, Server Access
13 Logs, books, written or printed records, handwritten notes, telephone logs,
14 telephone scripts, receipt books, ledgers, personal and business canceled checks
15 and check registers, bank statements, appointment books, computer records,
16 customer or sales databases and any other electronically stored information,
17 including Documents located on remote servers or cloud computing systems,
18 and other data or data compilations from which information can be obtained
19 directly or, if necessary, after translation into a reasonably usable form. A draft
20 or non-identical copy is a separate document within the meaning of the term.

21 G. **“Financial Entities”** means banks, savings and loans, Payment Processors,
22 Independent Sales Organizations, PayPal, and any other Person involved with
23 opening or maintaining merchant accounts, or Payment Processing.

24 H. **“Grant Product or Service”** means any product or service that is represented,
25 directly or by implication, to assist a Person in any manner in obtaining a grant
26 or similar financial assistance from a government agency or any other source.

27 I. **“Independent Sales Organization” or “ISO”** means any Person or entity that
28 (a) enters into an ISO agreement or contract with a Payment Processor, Acquirer

1 or financial institution to sell or market Payment Processing services to a
2 Merchant; (b) matches, arranges for, or refers Merchants to a Payment Processor
3 or Acquirer for Payment Processing services, or that matches, arranges for, or
4 refers a Payment Processor or Acquirer to Merchants for Payment Processing
5 services; or (c) is registered as an ISO or merchant service provider with VISA,
6 MasterCard, or any credit card association.

7 J. **“Individual Defendants”** means, Michael Ford Hilliard, Michael De Rosa,
8 Tiffany Hoffman, Shawn Stumbo, and Jeremy Silvers, individually, collectively,
9 or in any combination.

10 K. **“Merchant”** means any Person or entity engaged in the sale or marketing of any
11 goods or services or a charitable contribution, including any Person who applies
12 for ISO or Payment Processing services.

13 L. **“Merchant Account”** means an account used to submit credit card or debit card
14 transactions or process credit card or debit card transactions.

15 M. **“Payment Processing”** means transmitting sales transaction data on behalf of a
16 Merchant or providing a Person, directly or indirectly, with the means used to
17 charge or debit accounts through the use of any payment method or mechanism,
18 including, but not limited to, credit cards, debit cards, prepaid cards, stored value
19 cards, ACH Debits, and Remotely Created Payment Orders. Whether
20 accomplished through the use of software or otherwise, Payment Processing
21 includes, among other things: (a) reviewing and approving Merchant
22 applications for payment processing services; (b) transmitting sales transaction
23 data or providing the means to transmit sales transaction data from Merchants to
24 acquiring banks, Payment Processors, ISOs, or other financial institutions; (c)
25 clearing, settling, or distributing proceeds of sales transactions from acquiring
26 banks or financial institutions to Merchants; or (d) processing chargebacks or
27 returned Remotely Created Payment Orders or ACH Transactions.

28 N. **“Payment Processor”** means any Person providing Payment Processing

1 services in connection with another Person’s sale of goods or services, or in
2 connection with any charitable donation.

3 O. **“Person”** means a natural person, organization, or other legal entity, including
4 a corporation, limited liability company, partnership, proprietorship, association,
5 cooperative, government or governmental subdivision or agency, or any other
6 group or combination acting as an entity.

7 P. **“Receiver”** means Stephen Donell, the receiver appointed by the Court’s
8 Stipulated Preliminary Injunction entered on July 31, 2018.

9 Q. **“Remotely Created Payment Order”** means a payment instruction or order,
10 whether created in electronic or paper format, drawn on a payor’s financial
11 account that is initiated or created by the payee, and which is deposited into or
12 cleared through the check clearing system. For purposes of this definition, a
13 financial account includes any account or credit or other arrangement that allows
14 checks, payment instructions, or orders to be drawn against it that are payable
15 by, through, or at a bank.

16 R. **“Telemarketing”** means any plan, program, or campaign, which is conducted
17 to induce the purchase of goods or services by use of one or more telephones,
18 whether or not covered by the Telemarketing Sales Rule. This definition
19 includes outbound calls and inbound calls.

20 **ORDER**

21 **I. BAN ON ADVERTISING, MARKETING, PROMOTING, OR**
22 **OFFERING FOR SALE OF GRANT PRODUCTS OR SERVICES**

23 **IT IS ORDERED** that Michael De Rosa is permanently restrained and enjoined
24 from advertising, marketing, promoting, or offering for sale, or assisting in the advertising,
25 marketing, promoting, or offering for sale of, any Grant Product or Service, whether
26 directly or through an intermediary.

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1 **II. BAN ON TELEMARKETING**

2 **IT IS FURTHER ORDERED** that Michael De Rosa is permanently restrained and
3 enjoined from participating in Telemarketing, whether directly or through an intermediary.

4 **III. PROHIBITION AGAINST FALSE OR MISLEADING STATEMENTS**
5 **TO FINANCIAL ENTITIES**

6 **IT IS FURTHER ORDERED** that Michael De Rosa and his agents, employees,
7 and all other persons in active concert or participation with him, who receive actual notice
8 of this Order, whether acting directly or indirectly, in connection with obtaining Payment
9 Processing services, are permanently restrained and enjoined from making false or
10 misleading statements to Financial Entities, or assisting others in making false or
11 misleading statements, expressly or by implication, including but not limited to the
12 following:

- 13 A. Making false or misleading statements to obtain or maintain a Merchant Account
14 or obtain Payment Processing services;
- 15 B. Engaging in any practice that would have the effect of circumventing any
16 chargeback monitoring program or other risk management program
17 implemented by a credit card association or company;
- 18 C. Making false or misleading statements about (1) the control or affiliation
19 between any Person or entity seeking to procure services and any other Person
20 and entity, or (2) the nature, terms, conditions, and disclosures associated with
21 the advertising, marketing, promoting, offering for sale or sale of any product or
22 service offered;
- 23 D. Failing to disclose to any Financial Entity the following information and
24 documents: (1) the identity of the owner, manager, director, or officer of the
25 applicant for the merchant account; (2) any material connection between the
26 owner, manager, director, or officer of the applicant for or holder of a Merchant
27 Account and any third party who has been placed in a merchant account
28 monitoring program, has a Merchant Account terminated by a Financial Entity,

1 or has been fined or otherwise disciplined in connection with a merchant
2 account; and (3) all advertising, marketing materials and scripts relating to any
3 offered product or service.

4 **IV. PROHIBITION AGAINST MISREPRESENTATIONS AND**
5 **UNSUBSTANTIATED CLAIMS**

6 **IT IS FURTHER ORDERED** that Michael De Rosa and his agents, employees,
7 and all other Persons in active concert or participation with him, who receive actual notice
8 of this Order, whether acting directly or indirectly, in connection with the marketing,
9 advertising, promotion, distribution, offering for sale, or sale of any goods or services, are
10 hereby permanently restrained and enjoined from:

11 A. Misrepresenting, directly or indirectly, expressly or by implication, any material
12 fact, including:

- 13 1. The total cost to purchase, receive, or use, and the quantity of any good or
14 service that is the subject of the sales offer;
- 15 2. The income, earnings, profits, or sales volume likely to be achieved from any
16 good or service that is the subject of the sales offer;
- 17 3. Any material restrictions, limitations, or conditions to purchase, receive, or
18 use any good or service that is the subject of the sales offer; or
- 19 4. Any material aspect of the performance, efficacy, nature, or central
20 characteristics of any good or service that is the subject of the sales offer; and

21 B. Making any representation without competent and reliable evidence to
22 substantiate the representation is true, concerning:

- 23 1. Income, earnings, profits, or sales volume likely to be achieved from any
24 good or service that is the subject of the sales offer; or
- 25 2. Any material aspect of the performance, efficacy, nature, or central
26 characteristics of any good or service that is the subject of the sales offer.

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V. MONETARY JUDGMENT AND PARTIAL SUSPENSION

IT IS FURTHER ORDERED that:

- A. Judgment in the amount of **Three Million Dollars (\$3,000,000)** is entered in favor of the Commission against Michael De Rosa as equitable monetary relief. Full payment of the foregoing amount shall be suspended upon satisfaction of the obligations set forth in Subsection B of this Section, and subject to the conditions set forth in Subsections C, D, E and F of this Section:
- B. Effective upon the entry of this Order, Michael De Rosa shall surrender to the Commission all control, title, dominion, and interest in
 - 1. All funds in the BBVA account in the name of Michael De Rosa with the account number X7781; and
 - 2. All Assets currently in possession or control of the Receiver.
- C. For the bank account listed in Subsection B, the financial institution or payment processor identified shall, within five (5) days of entry of this Order, remit the entire balance of each account to the Commission by certified check(s) or other guaranteed funds payable to the Federal Trade Commission, Financial Management Office, or by wire transfer in accordance with directions provided by the Commission. Michael De Rosa shall cooperate in good faith with the FTC to effectuate these transfers, and shall, if needed, execute such documents as are necessary to remit the entire balance of each account to the Commission. Upon completion of the transfer from BBVA the asset freeze over De Rosa is dissolved.
- D. The Commission’s agreement to the suspension of part of the judgment is expressly premised upon the truthfulness, accuracy, and completeness of Michael De Rosa’s sworn financial statements and related documents (collectively, “financial representations”) submitted to the Commission, namely, the Financial Statement of Michael De Rosa signed on July 26, 2018, including the attachments.

- 1 E. The suspension of the judgment will be lifted as to Michael De Rosa if, upon
2 motion by the Commission, the Court finds that Michael De Rosa failed to
3 disclose any material Asset, materially misstated the value of any Asset, or made
4 any other material misstatement or omission in the financial representations
5 identified above.
- 6 F. If the suspension of the judgment is lifted, the judgment becomes immediately
7 due as to Michael De Rosa in the amount of **Three Million Dollars (\$3,000,000)**
8 as specified in Subsection A above (which the parties stipulate only for purposes
9 of this Section represents the consumer injury alleged in the Complaint), less
10 any payment previously made pursuant to this Section, plus interest computed
11 from the date of entry of this Order.

12 **VI. ADDITIONAL MONETARY PROVISIONS**

13 **IT IS FURTHER ORDERED** that:

- 14 A. Michael De Rosa relinquishes dominion and all legal and equitable right, title,
15 and interest in all Assets transferred pursuant to this Order and may not seek the
16 return of any Assets.
- 17 B. The facts alleged in the Complaint will be taken as true, without further proof,
18 in any subsequent civil litigation by or on behalf of the Commission in a
19 proceeding to enforce its rights to any payment or monetary judgment pursuant
20 to this Order, such as a nondischargeability complaint in any bankruptcy case.
- 21 C. The facts alleged in the Complaint establish all elements necessary to sustain an
22 action by the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy
23 Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel
24 effect for such purposes.
- 25 D. Michael De Rosa acknowledges that his Taxpayer Identification Numbers
26 (Social Security Numbers or Employer Identification Numbers), which he
27 previously submitted to the Commission, may be used for collecting and
28 reporting on any delinquent amount arising out of this Order, in accordance with

1 31 U.S.C. §7701.

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

14 **VII. CUSTOMER INFORMATION**

15 **IT IS FURTHER ORDERED** that Michael De Rosa, his agents, employees, and
16 all other persons in active concert or participation with him, who receive actual notice of
17 this Order are permanently restrained and enjoined from directly or indirectly:

- 18 A. Failing to provide sufficient customer information to enable the Commission to
19 efficiently administer consumer redress. If a representative of the Commission
20 requests in writing any information related to redress, Michael De Rosa must
21 provide it, in the form prescribed by the Commission, within 14 days;
- 22 B. Disclosing, using, or benefitting from customer information, including the name,
23 address, telephone number, email address, social security number, other
24 identifying information, or any data that enables access to a customer's account
25 (including a credit card, bank account, or other financial account), that any
26 Defendant obtained prior to entry of this Order in connection with the sale of
27 Grant Products or Services; and
- 28 C. Failing to destroy such customer information in all forms in their possession,

1 custody, or control within either entry of a stipulated final order against the last
2 remaining Defendant or receipt of written direction to do so form a
3 representative of the Commission.

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

7 **VIII. COOPERATION**

8 **IT IS FURTHER ORDERED** that Michael De Rosa must fully cooperate with
9 representatives of the Commission in this case and in any investigation related to or
10 associated with the transactions or the occurrences that are the subject of the Complaint.
11 Michael De Rosa must provide truthful and complete information, evidence, and
12 testimony. Michael De Rosa must appear for interviews, discovery, hearings, trials, and
13 any other proceedings that a Commission representative may reasonably request upon 5
14 days written notice, or other reasonable notice, at such places and times as a Commission
15 representative may designate, without the service of a subpoena.

16 **IX. ORDER ACKNOWLEDGMENTS**

17 **IT IS FURTHER ORDERED** that Michael De Rosa obtain acknowledgments of
18 receipt of this Order:

- 19 A. Michael De Rosa, within 7 days of entry of this Order, must submit to the
20 Commission an acknowledgment of receipt of this Order sworn under penalty
21 of perjury.
- 22 B. For five (5) years after entry of this Order, for any business that De Rosa,
23 individually or collectively with any other Defendants, is the majority owner or
24 controls directly or indirectly, must deliver a copy of this Order to: (1) all
25 principals, officers, directors, and LLC managers and members; (2) all
26 employees having managerial responsibilities for sales and all agents and
27 representatives who participate in sales; and (3) any business entity resulting
28 from any change in structure as set forth in the Section titled Compliance

1 Reporting. Delivery must occur within 7 days of entry of this Order for current
2 personnel. For all others, delivery must occur before they assume their
3 responsibilities.

4 C. From each individual or entity to which Michael De Rosa delivered a copy of
5 this Order, that Michael De Rosa must obtain, within 30 days, a signed and dated
6 acknowledgment of receipt of this Order.

7 **X. COMPLIANCE REPORTING**

8 **IT IS FURTHER ORDERED** that Michael De Rosa make timely submissions to
9 the Commission:

10 A. One year after entry of this Order, the Michael De Rosa must submit a
11 compliance report, sworn under penalty of perjury:

12 1. Michael De Rosa must: (a) identify the primary physical, postal, and email
13 address and telephone number, as designated points of contact, which
14 representatives of the Commission may use to communicate with him; (b)
15 identify all of his businesses by all of their names, telephone numbers, and
16 physical, postal, email, and Internet addresses; (c) describe the activities of
17 each business, including the goods and services offered, the means of
18 advertising, marketing, and sales, and the involvement of any other
19 Defendant (which he must describe if they know or should know due to their
20 own involvement); (d) describe in detail whether and how he is in
21 compliance with each Section of this Order; and (e) provide a copy of each
22 Order Acknowledgment obtained pursuant to this Order, unless previously
23 submitted to the Commission.

24 2. Additionally, Michael De Rosa must: (a) identify all telephone numbers and
25 all physical, postal, email and Internet addresses, including all residences; (b)
26 identify all business activities, including any business for which he performs
27 services whether as an employee or otherwise and any entity in which he has
28 any ownership interest; and (c) describe in detail his involvement in each

1 such business, including title, role, responsibilities, participation, authority,
2 control, and any ownership.

3 B. For ten (10) years after entry of this Order, Michael De Rosa must submit a
4 compliance notice, sworn under penalty of perjury, within 14 days of any change
5 in the following:

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

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

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

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

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.
4 The subject line must begin: FTC v. De Rosa.

5 **XI. RECORDKEEPING**

6 **IT IS FURTHER ORDERED** that Michael De Rosa must create certain records
7 for 10 years after entry of the Order, and retain each such record for 5 years. Specifically,
8 Michael De Rosa, for any business that he, individually or collectively with any other
9 Defendants, is a majority owner or controls directly or indirectly, must create and retain
10 the following records:

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

20 **XII. COMPLIANCE MONITORING**

21 **IT IS FURTHER ORDERED** that, for the purpose of monitoring Michael De
22 Rosa's compliance with this Order, including the financial representations upon which part
23 of the judgment was suspended:

- 24 A. Within 14 days of receipt of a written request from a representative of the
25 Commission, Michael De Rosa must: submit additional compliance reports or
26 other requested information, which must be sworn under penalty of perjury;
27 appear for depositions; and produce documents for inspection and copying. The
28 Commission is also authorized to obtain discovery, without further leave of

1 court, using any of the procedures prescribed by Federal Rules of Civil
2 Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

3 B. For matters concerning this Order, the Commission is authorized to
4 communicate directly with Michael De Rosa. Michael De Rosa must permit
5 representatives of the Commission to interview any employee or other person
6 affiliated with Michael De Rosa who has agreed to such an interview. The
7 person interviewed may have counsel present.

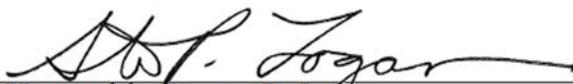
8 C. The Commission may use all other lawful means, including posing, through its
9 representatives as consumers, suppliers, or other individuals or entities, to
10 Michael De Rosa or any individual or entity affiliated with him, without the
11 necessity of identification or prior notice. Nothing in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

14 D. Upon written request from a representative of the Commission, any consumer
15 reporting agency must furnish consumer reports concerning Michael De Rosa,
16 pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C.
17 §1681b(a)(1).

18 **XIII. RETENTION OF JURISDICTION**

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

21 Dated this 26th day of February, 2019.

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24 Honorable Steven P. Logan
25 United States District Judge
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