

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

Midway Industries Limited Liability Company,
et al.

Defendants.

Case No. JFM 14-CV-2312

**STIPULATED FINAL ORDER FOR PERMANENT INJUNCTION AND JUDGMENT
AGAINST DEFENDANT ERIC A. EPSTEIN**

Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), filed its Complaint for Permanent Injunction and Other Equitable Relief, subsequently amended as its First Amended Complaint for Permanent Injunction and Other Equitable Relief (“Complaint”) in this matter, pursuant to Sections 13(b), and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108, and the Unordered Merchandise Statute, 39 U.S.C. § 3009. The Commission and Defendant Eric A. Epstein stipulate to the entry of this Stipulated Final Order for Permanent Injunction and Judgment Against Defendant Eric A. Epstein (“Order”) in settlement of the Commission’s Complaint to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that the Defendants participated in deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, the FTC's Telemarketing Sales Rule ("TSR"), 16 C.F.R. Part 310, the Unordered Merchandise Statute, 39 U.S.C. § 3009, and in unfair trade practices in violation of Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1) in connection with the telemarketing, distribution, and sale of light bulbs and cleaning supplies.
3. Defendant Eric A. Epstein neither admits nor denies any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendant Eric A. Epstein admits the facts necessary to establish jurisdiction.
4. Defendant Eric A. Epstein waives any claim that he may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agrees to bear his own costs and attorney fees.
5. Defendant Eric A. Epstein and the Commission agree that this Order resolves all allegations in the Complaint as between them.
6. Defendant Eric A. Epstein and the Commission waive all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

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

- A. **“Person”** means a natural person, an organization or other legal entity, including but not limited to a corporation, partnership, sole proprietorship, limited liability company, association, cooperative, or any other group or combination acting as an entity.
- B. **“Defendants”** means all of the Individual Defendants and the Corporate Defendants, individually, collectively, or in any combination.
- C. **“Corporate Defendants”** means Defendants Midway Industries Limited Liability Company, Commercial Industries LLC, National LLC, State Power & Lighting LLC, Standard Industries LLC, Essex Industries, LLC, Johnson Distributing Limited Liability Company, Hansen Supply LLC, Environmental Industries, LLC, Mid Atlantic Industries LLC, Midway Management, LLC and B & E Industries, LLC, and their successors and assigns.
- D. **“Epstein Frozen Assets”** means all assets of Defendant Eric A. Epstein subject to the asset freeze provisions of the Preliminary Injunction.
- E. **“Epstein IRA Accounts”** means a Merrill Lynch IRA account (number x7595) in the name of Defendant Eric A. Epstein; a Wells Fargo IRA account (number x7453) in the name of Defendant Eric A. Epstein; and ADP IRA funds of Defendant Eric A. Epstein as a participant in the Standard Industries LLC 401k Plan (plan number x3652).
- F. **“Epstein Receivership Assets”** means all Epstein Frozen Assets except for the Excluded Epstein Frozen Assets.
- G. **“Excluded Epstein Frozen Assets”** means the following Epstein Frozen Assets:

- a. Defendant Eric A. Epstein's primary residence: 1216 SW Mulberry Way, Boca Raton, FL;
 - b. Personal effects and clothing of Defendant Eric A. Epstein, computers, electronics, and home furnishings of ordinary value within Defendant Eric A. Epstein's primary residence, excluding jewelry, collectable coins, artwork over \$2,500 in value, and Louis Vuitton trunks;
 - c. The Epstein IRA Accounts; and
 - d. Any records or communications of Defendant Eric A. Epstein relating to the defense of this action or communications with his attorneys.
- H. **"Individual Defendants"** means Defendants Eric A. Epstein, Brian K. Wallen, Andrew J. Stafford, Alan M. Landsman, and Brandon D. Riggs.
- I. **"Preliminary Injunction"** means the Stipulated Preliminary Injunction with Continued Appointment of a Receiver, Asset Freeze, and Accounting entered by the Court on October 29, 2014 (Doc 74).
- J. **"Telemarketing"** means any plan, program, or campaign which is conducted to induce the purchase of goods or services by use of one or more telephones, and which involves a telephone call, whether or not covered by the Telemarketing Sales Rule.
- K. **"Unordered merchandise"** means merchandise mailed or otherwise sent without the prior expressed request or consent of the recipient.

ORDER

I. PERMANENT BAN

IT IS ORDERED that Eric A. Epstein is permanently restrained and enjoined from telemarketing or assisting in the telemarketing of nondurable office or cleaning supplies including light bulbs.

II. PROHIBITED MISREPRESENTATIONS

IT IS FURTHER ORDERED that Eric A. Epstein, his agents and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with telemarketing, advertising, marketing, promoting, or offering for sale of any goods or services are permanently restrained and enjoined from misrepresenting or assisting others in misrepresenting expressly or by implication:

- A. that a consumer ordered goods or services that were to be shipped or billed to the consumer;
- B. that they have previously done business with the consumer;
- C. that they would send only a free sample, free gift, or free product catalog;
- D. any material terms regarding the total cost to purchase, receive, or use, and the quantity of, any goods or services that are subject to a sales offer;
- E. any material restrictions, limitations, or conditions to purchase, receive, or use the goods or services offered; or

- F. any material aspect of the performance, efficacy, nature, characteristics, benefits, or qualities of the goods and services offered.

III. PROHIBITIONS RELATING TO TELEMARKETING SALES AND UNORDERED MERCHANDISE

IT IS FURTHER ORDERED that Eric A. Epstein, his agents and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the sale of any goods or services are hereby permanently restrained and enjoined from:

- A. in connection with any telemarketing call, failing to disclose truthfully, promptly, and in a clear and conspicuous manner to the person receiving the call that the purpose of the call is to sell goods;
- B. in connection with any telemarketing call, making any false or misleading statement, directly or by implication, to induce any person to pay for goods or services;
- C. sending unordered merchandise unless such merchandise is clearly and conspicuously marked as a free sample;
- D. sending any bill or dunning communication relating to unordered merchandise;
- E. violating the Telemarketing Sales Rule, 16 C.F.R. Part 310 (annexed hereto as Attachment A); or
- F. violating the Unordered Merchandise Statute, 39 U.S.C. § 3009 (annexed hereto as Attachment B).

IV. EQUITABLE MONETARY RELIEF

IT IS FURTHER ORDERED that:

A. Judgment in the amount of Fifty-eight million, two hundred eighty-seven thousand, eight hundred forty-nine Dollars (\$58,287,849) is entered in favor of the Commission against Eric A. Epstein jointly and severally, as equitable monetary relief. Upon satisfaction of the requirements of Sections IV.B, VIII, and IX of this Order, the balance of the judgment shall be suspended, subject to subsections IV.C, IV.D, IV.E, and IV.F, below.

B. Eric A. Epstein shall relinquish all legal and equitable right, title, and interest in all assets in the custody of, or subject to the custody of, the Receiver pursuant to this Order or any other Order of the Court, including but not limited to the assets designated as the Epstein Receivership Assets, and may not seek to assert any interest in any such assets.

C. The Commission's agreement to the suspension of part of the judgment is expressly premised upon the truthfulness, accuracy, and completeness of Eric A. Epstein's sworn financial statements and related documents (collectively, "financial representations") submitted to the Commission, namely:

1. the Financial Statement of Eric A. Epstein signed on July 29, 2014, including the attachments; and

2. additional asset documentation and information subsequently provided by Eric A. Epstein through his consulting counsel Andrew B. Lustigman in correspondence and emails dated June 18, 2015, July 14, 2015, September 9, 2015, and October 6, 2015.

D. The suspension of the judgment will be lifted as to Eric A. Epstein if, upon motion by the Commission,

1. the Court finds that Eric A. Epstein failed to disclose any material asset, materially misstated the value of any asset, or made any other material misstatement or omission in the financial representations identified above; or

2. the Court finds that, after November 2, 2015, Eric A. Epstein failed to disclose any material Epstein Receivership Asset (at a time when he had the ability to make such a disclosure), or made any other material misstatement or omission to the Receiver, or to any agent or representative of the Receiver, pertaining to the Epstein Receivership Assets.

E. If Eric A. Epstein, or his representative, is or becomes aware (through notice from the Receiver or the Commission, or by any other means) that an asset constituting an Epstein Receivership Asset was omitted from any disclosure or was not turned over to the Receiver, Eric A. Epstein, or his representative, shall turn over to the Receiver such asset, or the liquidated value of such asset, within 14 days of becoming aware of such omission or failure to turn over (or, if the receivership has terminated, shall turn over the liquidated value of such asset to the Commission within 14 days). The suspension of the judgment will be lifted as to Eric A. Epstein if, upon motion by the Commission, the Court finds that Eric A. Epstein, or his representative, has failed to comply with the provisions of this subsection IV.E.

F. If the suspension of the judgment is lifted, the judgment becomes immediately due as to Eric A. Epstein in the amount specified in Subsection A above which the parties stipulate only for purposes of this Section represents the consumer injury or disgorgement amount alleged in

the Complaint, less the sum of the gross liquidation proceeds of the Epstein Receivership Assets, plus interest computed from the date of entry of this Order.

V. ADDITIONAL MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

- A. Eric A. Epstein relinquishes dominion and all legal and equitable right, title, and interest in all assets transferred to the Commission pursuant to this Order or any other Order of the Court and may not seek the return of any assets.
- B. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission 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 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. Eric A. Epstein acknowledges that his taxpayer identification number (social security number), which Eric A. Epstein previously submitted to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. §7701.
- E. All money paid to the Commission pursuant to this Order may be deposited into a fund administered by the Commission or its designee to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a

representative of the Commission decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the Complaint. Any money not used for such equitable relief is to be deposited to the U.S. Treasury as disgorgement. Eric A. Epstein has no right to challenge any actions the Commission or its representatives may take pursuant to this Subsection.

G. If Eric A. Epstein fails to comply to the best of his ability with all obligations under this Section or Sections IV, VIII, or IX, then the judgment amount, minus the sum of the gross liquidation proceeds of the Epstein Receivership Assets, becomes immediately due.

H. If Eric A. Epstein fails to satisfy to the best of his ability his obligations under Sections IV.B, VIII, and IX, he must cooperate fully with the Commission and their representatives in all attempts to collect the judgment. In such an event, Eric A. Epstein agrees to provide federal and state tax returns for the preceding 2 years or to take all necessary steps (such as filing a completed IRS Form 4506 or 8821) to cause the Internal Revenue Service or other tax authority to provide the information directly to the Commission, and to complete new financial disclosure forms fully and accurately within 10 business days of receiving a request from the Commission. Eric A. Epstein further authorizes the Commission to verify all information provided on his financial disclosure forms with all appropriate third parties, including financial institutions.

VI. LIFTING OF ASSET FREEZE

IT IS FURTHER ORDERED that the asset freeze imposed by the Preliminary Injunction is dissolved as to the Excluded Epstein Frozen Assets. A financial institution shall be entitled to rely upon a letter from the Commission stating that the freeze on certain assets of Defendant Eric A. Epstein has been lifted, and the Commission shall, upon request, provide any such letters as required to enable Defendant Eric A. Epstein (or his representative) freely to access and use the Excluded Epstein Frozen Assets. This Order shall have no other effect on the asset freeze imposed by the Preliminary Injunction, which continues in effect except as otherwise modified by other Order or Orders of the Court.

VII. RECEIVERSHIP

IT IS FURTHER ORDERED that the appointment of Peter E. Keith as receiver (Receiver) for the Epstein Receivership Assets as entered on November 2, 2015, is hereby continued in full force and effect except as modified in this Section. Within 30 days of the entry of this Order (or within such other period as the Court may determine to grant to the Receiver upon the Receiver's request and for good cause), the Receiver shall provide to the Commission and to Defendant Eric A. Epstein (or his representative) an inventory of the Epstein Receivership Assets and an estimate of the gross liquidation value of the Epstein Receivership Assets, and shall certify in writing whether Defendant Eric A. Epstein (directly or through his representative) has satisfied the obligations under Section VIII (Cooperation With Receiver) and Section IX (Transfer Of Assets To Receiver), below. The Receiver shall have full authority to liquidate all of the Epstein Receivership Assets, and is directed to do so within 120 days of the entry of this

Order, except that any party or the Receiver may request that the Court extend this period for good cause. In liquidating the Epstein Receivership Assets, the Receiver shall comply with the Court's direction that he determine, adjust, and protect the interests of consumers and creditors who may have claims against the Epstein Receivership Assets. Within 30 days of the liquidation of the Epstein Receivership Assets, the Receiver shall submit a final report and application for fees and expenses relating to the receivership over the Epstein Receivership Assets, and upon approval of the same by the Court, shall pay any remaining funds, less claims approved by the Court, to the Commission. Upon the Court's approval of the Receiver's final report as to the Epstein Receivership Assets, and the payment of any remaining funds to the Commission under this Section, the Receivership over the Epstein Receivership Assets shall be terminated. Section VI (Stay Of Actions) of the Order of November 2, 2015, continues in full force and effect until the termination of the receivership over the Epstein Receivership Assets.

VIII. COOPERATION WITH RECEIVER

IT IS FURTHER ORDERED that Defendant Eric A. Epstein, and his successors, assigns, officers, agents, servants, employees, and those persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise are hereby restrained and enjoined from directly or indirectly:

A. destroying, secreting, defacing, transferring, or otherwise altering or disposing of any documents pertaining to the Epstein Receivership Assets, including, but not limited to, books, records, accounts, writings, drawings, graphs, charts, photographs, audio and video recordings,

computer records, and other data compilations, electronically-stored records, or any other papers of any kind or nature;

B. transferring, receiving, altering, selling, encumbering, pledging, assigning, liquidating, or otherwise disposing of any assets owned, controlled, or in the possession or custody of, or in which an interest is held or claimed by, the Receivership Defendants, or the Receiver;

C. excusing debts owed to Defendant Eric A. Epstein;

D. failing to notify the Receiver of any Epstein Receivership Asset, including accounts, held in any name other than the name of Defendant Eric A. Epstein, or by any person or entity other than Defendant Eric A. Epstein, or failing to provide any assistance or information requested by the Receiver in connection with inventorying the Epstein Receivership Assets or in connection with obtaining possession, custody, or control of Epstein Receivership Assets;

E. doing any act or refraining from any act whatsoever to interfere with the Receiver managing, or taking custody, control, or possession of, the assets or documents subject to this receivership; or to harass or interfere with the Receiver in any way; or to interfere in any manner with the exclusive jurisdiction of the Court over the assets or documents subject to this receivership; or to refuse to cooperate with the Receiver or the Receiver's duly authorized agents in the exercise of their duties or authority under any order of the Court.

Provided, however, that Defendant Eric A. Epstein may have counsel present during any interview of Defendant Eric A. Epstein by the Receiver or the Receiver's duly authorized agents. This Section does not preclude Defendant Eric A. Epstein from invoking any Fifth Amendment privilege against self-incrimination. This Section does not preclude Defendant Eric A. Epstein

from refusing the Receiver access to Defendant Eric A. Epstein's primary residence, except that Defendant Eric A. Epstein must work in good faith with the Receiver to establish reasonable scope, times, manner, and number of persons for such access to permit the Receiver or the Receiver's duly authorized agents to exercise their duties or authority under this Order or any order of the Court.

IX. TRANSFER OF ASSETS TO RECEIVER

IT IS FURTHER ORDERED that, upon service of a copy of this Order, Defendants, and any other person or entity served with a copy of this Order upon them, shall deliver over to the Receiver (to the extent not already delivered over to the Receiver) and in the manner specified by the Receiver:

- A. all funds, assets, property owned beneficially or otherwise, and all other assets, wherever situated, that are included within the Epstein Receivership Assets;
- B. all keys, entry codes, combinations to locks required to open or gain access to any of the property or effects included within the Epstein Receivership Assets; and
- C. all monies in any bank or financial institution included within the Epstein Receivership Assets, wherever situated. All banks, broker-dealers, savings and loans, escrow agents, title companies, commodity trading companies, merchant account processors, precious metals dealers and other financial institutions and depositories of any kind, and all third-party billing agents and companies shall cooperate with all reasonable requests of Plaintiff and Receiver relating to implementation of this Order, including requests to transfer funds to the Receiver and to produce records relating to the assets of Defendant Eric A. Epstein.

Defendant Eric A. Epstein or his representative will execute and deliver to the Receiver any further instruments and will take any further action that the Receiver reasonably requests in order to carry out his duties or authority under this Order

X. CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Eric A. Epstein, his agents, employees, and other persons who are in active concert or participation with any of them are permanently restrained and enjoined from directly or indirectly:

- A. failing to provide sufficient customer information to enable the Commission to efficiently administer consumer redress. Eric A. Epstein represents that, if he has any such redress information, he has provided this redress information to the Commission. If a representative of the Commission reasonably requests in writing any information related to redress, Eric A. Epstein must provide it, in the form prescribed by the Commission, within 14 days.
- B. disclosing, using, or benefitting from customer information, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), that any Defendant obtained prior to entry of this Order in connection with the telemarketing, marketing, advertising, or sale of nondurable office and cleaning supplies including light bulbs; and
- C. failing to destroy such customer information in all forms in their possession, custody, or control within 30 days after receipt of written direction to do so from a representative of the Commission.

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

XI. COOPERATION

IT IS FURTHER ORDERED that Eric A. Epstein must fully cooperate with representatives of the Commission in this case and in any investigation related to or associated with the transactions or the occurrences that are the subject of the Complaint. Eric A. Epstein must provide truthful and complete information, evidence, and testimony. Eric A. Epstein must appear for interviews, discovery, hearings, trials, and any other proceedings that a Commission representative may reasonably request upon 5 days written notice, or other reasonable notice, at such places and times as a Commission representative may designate, without the service of a subpoena. This Section does not preclude Eric A. Epstein from invoking any Fifth Amendment privilege against self-incrimination.

XII. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Eric A. Epstein obtain acknowledgments of receipt of this Order:

- A. Within 7 days of entry of this Order, Eric A. Epstein must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.
- B. For 10 years after entry of this Order, Eric A. Epstein for any business that he, individually or collectively with any other Defendants, is the majority owner or controls directly or indirectly, must deliver a copy of this Order to: (1) all principals, officers, directors,

and LLC managers and members; (2) all employees, agents, and representatives who participate in telemarketing, causing merchandise to be sent to customers, or causing bills or dunning communications for merchandise to be sent to customers; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within 7 days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which Eric A. Epstein delivered a copy of this Order, he must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

XIII. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Eric A. Epstein make timely submissions to the Commission:

A. One year after entry of this Order, Eric A. Epstein must submit a compliance report, sworn under penalty of perjury:

1. Eric A. Epstein must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission may use to communicate with him; (b) identify all of Eric A. Epstein's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant (which Eric A. Epstein must describe if he knows or should know due to his own involvement); (d) describe in detail whether and how Eric A. Epstein is in compliance with each Section of this Order; and (e) provide a copy

of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

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

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

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

2. Additionally, Eric A. Epstein must report any change in: (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for which Eric A. Epstein performs services whether as an employee or otherwise and any entity in which Eric A. Epstein has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity.

C. Eric A. Epstein must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against him within 14 days of its filing.

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

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: *FTC v. Eric A. Epstein*, Matter No. X140044.

XIV. RECORDKEEPING

IT IS FURTHER ORDERED that Eric A. Epstein must create certain records for 20 years after entry of the Order, and retain each such record for 5 years. Specifically, Eric A. Epstein for any business that he, individually or collectively with any other Defendants, is a majority owner or controls directly or indirectly, must create and retain the following records:

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

- B. personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;
- C. records of all consumer complaints and refund requests pertaining to telemarketing practices or allegations of sending or billing for unordered merchandise, whether received directly or indirectly, such as through a third party, and any response;
- D. all records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission; and
- E. a copy of each unique script used in any telemarketing plan, program, or campaign.

XV. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Eric A. Epstein's compliance with this Order, including the financial representations upon which part of the judgment was suspended and any failure to transfer any assets as required by this Order:

- A. Within 14 days of receipt of a written request from a representative of the Commission, Eric A. Epstein must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission is also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69; *provided* that Eric A. Epstein, after attempting to resolve a dispute without court action and for good cause

shown, may file a motion with this Court seeking an order for one or more of the protections set forth in Rule 26(c).

B. For matters concerning this Order, the Commission is authorized to communicate directly with Eric A. Epstein. Eric A. Epstein must permit representatives of the Commission to interview any employee or other person affiliated with him who has agreed to such an interview; *provided* that Eric A. Epstein, after attempting to resolve a dispute without court action and for good cause shown, may file a motion with this Court seeking an order for one or more of the protections set forth in Rule 26(c). The person interviewed may have counsel present.

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

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

XVI. RETENTION OF JURISDICTION

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

SO ORDERED this ^{6th} ~~3rd~~ day of ~~June~~ *June*, 2016.

[Signature]
UNITED STATES DISTRICT JUDGE

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U.S. DISTRICT COURT
DISTRICT OF MARYLAND
2016 APR 22 AM 11:58
CLERK'S OFFICE
AT BALTIMORE
BY _____ DEPUTY

FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND
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