

#14

Send
ENTER
closed

1 DEBRA A. VALENTINE
2 General Counsel
3 Federal Trade Commission

3 BRINLEY H. WILLIAMS
4 GERALD C. ZEMAN
5 Federal Trade Commission
6 Eaton Center-Suite 200
7 1111 Superior Avenue
8 Cleveland, Ohio 44114-2507
9 Phone (216) 263-3414
10 Fax (216) 263-3426

11 JOHN D. JACOBS, CA Bar No. 134154
12 Local Counsel
13 Federal Trade Commission
14 10877 Wilshire Blvd. - Suite 700
15 Los Angeles, California 90024
16 Phone (310) 824-4360
17 Fax (310) 824-4380
18 Attorneys for Plaintiff

FILED
DEC 14 2000
CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
BY

X000005

13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA
15 WESTERN DIVISION

ENTERED
CLERK, U.S. DISTRICT COURT
DEC 14 2000
CENTRAL DISTRICT OF CALIFORNIA
BY

16 FEDERAL TRADE COMMISSION,

17 Plaintiff,

18 v.

19 INTERNATIONAL BUSINESS NETWORK, INC.,
20 a corporation, and

21 DANNY YAHALOM, individually and
22 as an officer of INTERNATIONAL
23 BUSINESS NETWORK, INC., and

24 OREN BEN ELKANAH, individually and
25 as an officer of INTERNATIONAL
26 BUSINESS NETWORK, INC.,

Defendants.

Case No.
CV-99-12831 R(RZx)

**STIPULATED FINAL
JUDGMENT AND ORDER**

Becketed
Copies / NTC Sent
JS - 5 / JS - 6
JS - 2 / JS - 3
CLSD

THIS CONSTITUTES NOTICE OF ENTRY
AS REQUIRED BY FRCP, RULE 77(D).

LOGGED

12/13

1 Plaintiff, the Federal Trade Commission ("FTC" or
2 "Commission"), commenced this action by filing a Complaint
3 pursuant to Sections 13(b) and 19 of the Federal Trade
4 Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b, and the
5 Telemarketing and Consumer Fraud and Abuse Prevention Act,
6 15 U.S.C. § 6101 et seq., charging defendants Danny Yahalom,
7 Oren Ben Elkanah and International Business Network, Inc., with
8 engaging in unfair or deceptive acts or practices in connection
9 with the sale, offering for sale, or distribution of nondurable
10 office supplies, including photocopier toner, in violation of
11 Section 5 of the FTC Act, 15 U.S.C. § 45, and the FTC's
12 Telemarketing Sales Rule, 16 C.F.R. Part 310.

13 Now the Commission and defendants Danny Yahalom,
14 Oren Ben Elkanah and International Business Network, Inc.,
15 agree to a settlement of this action without trial or
16 adjudication of any issue of law or fact herein and without
17 defendants Danny Yahalom, Oren Ben Elkanah and International
18 Business Network, Inc., admitting liability for any of the
19 violations alleged in the Complaint or for any wrongdoing
20 whatsoever. The Commission and defendants Danny Yahalom,
21 Oren Ben Elkanah and International Business Network, Inc.,
22 consent to entry of this Stipulated Final Judgment and Order
23 ("Order") without trial or adjudication of any issue of law or
24 fact herein.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

FINDINGS

1. This is an action by the Commission instituted under Sections 13(b) and 19 of the Federal Trade Commission Act, 15 U.S.C. §§ 53(b), and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. § 6101 *et seq.* The Complaint seeks permanent injunctive relief against defendants Danny Yahalom, Oren Ben Elkanah and International Business Network, Inc., in connection with the sale of nondurable office supplies.

2. This Court has jurisdiction over the subject matter of this case and over defendants Danny Yahalom, Oren Ben Elkanah and International Business Network, Inc. Venue in the Central District of California is proper.

3. The Complaint states a claim upon which relief may be granted against defendants Danny Yahalom, Oren Ben Elkanah and International Business Network, Inc., under Sections 5(a), 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, and the Commission's Telemarketing Sales Rule, 16 C.F.R. Part 310.

4. The Commission has the authority under Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. § 6101 *et seq.*, to seek the relief it has requested.

5. The activities of defendants Danny Yahalom, Oren Ben Elkanah and International Business Network, Inc.,

1 charged in the Complaint are in or affecting commerce, as
2 defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

3 6. By stipulating and consenting to the entry of this
4 Order, defendants Danny Yahalom, Oren Ben Elkanah and
5 International Business Network, Inc., do not admit any of the
6 allegations in the Complaint, except those contained in
7 Paragraphs 1 through 5 herein. Likewise, by executing this
8 Order, the FTC does not admit that any defense to the Complaint
9 is valid.

10 7. This action and the relief awarded herein is in
11 addition to, and not in lieu of, other remedies as may be
12 provided by law, including both civil and criminal remedies.

13 8. Defendants Danny Yahalom, Oren Ben Elkanah and
14 International Business Network, Inc., enter into this Order
15 freely and without coercion, and acknowledge that they
16 understand the provisions of this Order and are prepared to
17 abide by its terms. At all times, the defendants have been
18 represented by counsel, including the negotiations that led to
19 this Order.

20 9. Any voluntary bankruptcy petition filed by defendant
21 Danny Yahalom or defendant Oren Ben Elkanah does not
22 automatically stay this action, which the Court finds is the
23 "commencement or continuation of any action or proceeding by a
24 governmental unit to enforce such governmental unit's police or
25 regulatory power," as set forth in 11 U.S.C. § 362(b)(4).
26

1 4. "Consumer" means any person, including any
2 individual, group, unincorporated association, limited or
3 general partnership, corporation or other business entity.

4 5. "Receivership defendant" means defendant
5 International Business Network, Inc.

6 6. "Assisting others" means knowingly providing any of
7 the following goods or services to another entity: (1)
8 performing customer service functions, including, but not
9 limited to, receiving or responding to consumer complaints; (2)
10 formulating or providing, or arranging for the formulation or
11 provision of, any telephone sales script or any other marketing
12 material; (3) providing names of, or assisting in the
13 generation of, potential customers; or (4) performing marketing
14 services of any kind.

15 7. The terms "and" and "or" have both conjunctive and
16 disjunctive meanings.

17
18 **I. RESTRICTIONS ON SALE OF OFFICE SUPPLIES and TELEMARKETING**

19 **IT IS HEREBY ORDERED** that the individual defendants,
20 whether acting directly or through any corporation, limited
21 liability company, subsidiary, division or other device, are
22 hereby permanently restrained and enjoined from:

23 A. Engaging or participating in the advertising,
24 offering for sale, sale or distribution of nondurable office
25 supplies, or assisting others who are engaging or participating
26

1 in the advertising, offering for sale, sale or distribution of
2 nondurable office supplies, unless the transactions are
3 completed after a face-to-face contact between the seller or
4 solicitor and the consumers solicited.

5 B. Engaging or participating, or assisting others who
6 are engaging or participating, in any business activity
7 (including but not limited to (i) initiating or receiving
8 telephone calls; (ii) managing others who initiate or receive
9 telephone calls; (iii) operating an enterprise that initiates
10 or receives telephone calls; (iv) owning or serving as an
11 officer or director of an enterprise that initiates or receives
12 telephone calls; or (v) otherwise working as an employee or
13 independent contractor with a unit or division of an enterprise
14 that initiates or receives telephone calls) that involves
15 attempts to induce consumers to purchase any item, good,
16 service, partnership interest, trust interest or other
17 beneficial interest, or to enter a contest for a prize, by
18 means of telephone sales presentations, either exclusively or
19 in conjunction with the use of other forms of marketing, unless
20 such transaction is not completed until after a face-to-face
21 contact between the seller or solicitor and the consumers
22 solicited.

1 **II. PROHIBITED BUSINESS ACTIVITIES**

2 **A. IT IS FURTHER ORDERED** that, in connection with the
3 advertising, marketing, promoting, offering for sale or sale of
4 any good or service, defendants and each of their agents,
5 servants, employees, attorneys, and all persons or entities
6 directly or indirectly under their control, and all other
7 persons or entities in active concert or participation with
8 them who receive actual notice of this Order by personal
9 service or otherwise, and each such person, whether acting
10 directly or through any corporation, limited liability company,
11 subsidiary, division or other device, are hereby permanently
12 restrained and enjoined from:

13 1. Misrepresenting, expressly or by implication,
14 that any consumer, or any consumer's employee or other
15 representative, ordered any good or service that was shipped
16 and/or billed to the consumer by a defendant;

17 2. Misrepresenting, expressly or by implication,
18 that a defendant is associated with a consumer's regular
19 supplier or provider of the good or service, or associated with
20 the manufacturer of any product or equipment used by the
21 consumer in conjunction with the good or service;

22 3. Misrepresenting to any consumer, or any
23 consumer's employee or representative, expressly or by
24 implication, that defendants have previously transacted
25 business with the consumer;

1 4. Making any misrepresentation, expressly or by
2 implication, regarding a consumer's obligation to make payment;

3 5. Making any misrepresentation, expressly or by
4 implication, regarding the price of the product or service.

5 6. Making any misrepresentation regarding the
6 distribution or availability of any good or service.

7
8 **B. IT IS FURTHER ORDERED** that, in connection with the
9 advertising, marketing, promoting, offering for sale, or sale
10 of any good or services, defendants and their agents, servants,
11 employees, attorneys, and all persons or entities directly or
12 indirectly under their control, and all other persons or
13 entities in active concert or participation with them who
14 receive actual notice of this Order by personal service or
15 otherwise, and each such person, whether acting directly or
16 through any corporation, limited liability company, subsidiary,
17 division or other device, are hereby permanently restrained and
18 enjoined from misrepresenting, expressly or by implication, any
19 other fact material to a consumer's decision to buy or accept
20 the good or service from defendants.

21
22 **C. IT IS FURTHER ORDERED** that defendants and their
23 agents, servants, employees, attorneys, and all persons or
24 entities directly or indirectly under their control, and all
25 other persons or entities in active concert or participation
26

1 with them who receive actual notice of this Order by personal
2 service or otherwise, and each such person, whether acting
3 directly or through any corporation, limited liability company,
4 subsidiary, division or other device, are hereby permanently
5 restrained and enjoined from:

6 1. Violating Section 310.3(a)(4) of the
7 Telemarketnig Sales Rule, 16 C.F.R. § 310.3(a)(4), by making
8 false or misleading statements to induce a consumer to pay for
9 any product or service, including, but not limited to,
10 misrepresenting directly or by implication that (a) defendants
11 are associated with a consumer's regular supplier or provider
12 of the good or service, or are associated with the manufacturer
13 of any product or equipment used by the consumer in conjunction
14 with the good or service, or (b) the consumer ordered any good
15 or service that was shipped, provided, and/or billed to the
16 consumer by defendants;

17 2. Violating Section 310.4(d)(2) of the
18 Telemarketing Sales Rule, 16 C.F.R. § 310.4(d)(2), by failing
19 to disclose promptly and in a clear and conspicuous manner to
20 the person receiving the call, in "outbound telephone calls,"
21 as that term is defined in the Telemarketing Sales Rule,
22 16 C.F.R. § 310.2(n), that the purpose of the call is to sell
23 goods;

24 3. Violating Section 310.4(d)(1) of the
25 Telemarketing Sales Rule, 16 C.F.R. § 310.4(d)(1), by failing
26

1 to disclose the identity of the seller to the person receiving
2 the call, promptly and in a clear and conspicuous manner, in
3 "outbound telephone calls," as that term is defined in the
4 Telemarketing Sales Rule, 16 C.F.R. § 310.2(n);

5 4. Violating Section 310.3(b) of the Telemarketing
6 Sales Rule, 16 C.F.R. § 310.3(b), by providing substantial
7 assistance or support to any seller or telemarketer when that
8 person knows or consciously avoids knowing that the seller or
9 telemarketer is engaged in any act or practice that violates
10 Section 310.3(a), 310.3(c), or Section 310.4, of the
11 Telemarketing Sales Rule, 16 C.F.R §§ 310.3(a), 310.3(c) or
12 310.4; or

13 5. Violating or assisting others in violating any
14 other provision of the Telemarketing Sales Rule, 16 C.F.R. Part
15 310.

16
17 *Provided, however,* that nothing in this Section shall be
18 construed to nullify the prohibitions set forth in Section I,
19 above.

20
21 A copy of the Telemarketing Sales Rule is appended to this
22 Order as Attachment A and is incorporated herein as if fully
23 rewritten. In the event that the Telemarketing Sales Rule is
24 amended by the Commission in a manner which would create a new
25 or different standard applicable to defendants' obligations

1 under this Order, defendants' compliance with the Telemarketing
2 Sales Rule as so amended shall not be deemed a violation of
3 this Order.

4
5 **III. PROHIBITIONS AGAINST DISTRIBUTION OF CUSTOMER LISTS**

6 **IT IS FURTHER ORDERED** that defendants and their agents,
7 servants, employees, attorneys, and all persons or entities
8 directly or indirectly under their control, and all other
9 persons or entities in active concert or participation with
10 them who receive actual notice of this Order by personal
11 service or otherwise, and each such person, whether acting
12 directly or through any corporation, limited liability company,
13 subsidiary, division or other device, are permanently
14 restrained and enjoined from selling, renting, leasing,
15 transferring or otherwise disclosing the name, address,
16 telephone number, credit card number, bank account number or
17 other identifying information of any person who paid any money
18 to defendant International Business Network, Inc., at any time,
19 in connection with the offering for sale or sale of any good or
20 service; **provided, however,** that defendant may disclose such
21 identifying information to a law enforcement agency or as
22 required by any law, regulation or court order, and shall
23 disclose such identifying information to the Commission
24 pursuant to this Order.

1 IV. PROHIBITION ON TRANSFERRING BUSINESS INFORMATION

2 IT IS FURTHER ORDERED that defendants and their agents,
3 servants, employees, attorneys, and all persons or entities
4 directly or indirectly under their control, and all other
5 persons or entities in active concert or participation with
6 them who receive actual notice of this Order by personal
7 service or otherwise, and each such person, whether acting
8 directly or through any corporation, limited liability company,
9 subsidiary, division or other device, are hereby restrained and
10 enjoined from transferring or in any other way providing to any
11 person (other than a federal, state or local law enforcement
12 agency or pursuant to a court order), directly or indirectly,
13 any books, records, tapes, disks, accounting data, manuals,
14 electronically stored data, banking records, invoices,
15 telephone records, ledgers, payroll records, or other documents
16 of any kind, including information stored in computer-
17 maintained form, in the possession, custody or control of
18 defendants, or any trade secrets or knowledge, whether recorded
19 or otherwise, that are in any way related to defendant
20 International Business Network, Inc.

21
22 V. SUSPENDED JUDGMENT

23 IT IS FURTHER ORDERED that judgment is hereby entered
24 against defendants Danny Yahalom and Oren Ben Elkanah, jointly
25 and individually, in the amount of **SIX MILLION DOLLARS**

1 (\$6,000,000.00); *provided, however*, that upon the fulfillment
2 by defendants Danny Yahalom and Oren Ben Elkanah of the
3 requirements of Section VI of this Order, this judgment shall
4 be suspended until further order of the Court, *and provided*
5 *further* that this judgment shall be subject to the conditions
6 set forth in Sections VII and VIII of this Order.

7
8 **VI. MONETARY RELIEF**

9 **IT IS FURTHER ORDERED** that defendants Danny Yahalom and
10 Oren Ben Elkanah jointly and individually are liable for
11 payment of equitable monetary relief, including, but not
12 limited to, consumer redress and/or disgorgement, and for
13 paying any attendant expenses of administration of any redress
14 fund, in the amount of **EIGHTY-FIVE THOUSAND DOLLARS (\$85,000)**.
15 Such payment shall be remitted to the Federal Trade Commission,
16 East Central' Region, Eaton Center-Suite 200, 1111 Superior
17 Avenue, Cleveland, Ohio 44114-2507, by certified or cashier's
18 check within five (5) days of the entry of this Order. The
19 monetary relief ordered herein does not constitute full
20 compensation for the monetary harm alleged in the Complaint in
21 this action, and is not accepted as such. Defendants Danny
22 Yahalom and Oren Ben Elkanah acknowledge and agree that all
23 money paid pursuant to this Order is irrevocably paid to the
24 Commission for purposes of settlement between the Commission
25 and defendants Danny Yahalom and Oren Ben Elkanah of the
26

1 Commission's claims in this action. Defendants Danny Yahalom
2 and Oren Ben Elkanah acknowledge and agree that they will
3 execute and file any and all documents necessary to transfer
4 their frozen individual assets to the Commission to satisfy, in
5 whole or in part, the \$85,000 consumer redress/disgorgement
6 amount provided for in this Section.

7
8 **VII. ACKNOWLEDGMENT OF RECEIPT OF ORDER**

9 **IT IS FURTHER ORDERED** that, within five (5) business days
10 after entry of this Order, defendants Danny Yahalom and
11 Oren Ben Elkanah shall each submit to the Commission a truthful
12 sworn and notarized statement, in the form shown on Appendix 1,
13 that shall acknowledge receipt of this Order as entered.

14
15 **VIII. RIGHT TO REOPEN AND TERMINATE SUSPENSION**

16 **IT IS FURTHER ORDERED** that the Commission's agreement to
17 this Order is expressly premised upon the truthfulness,
18 accuracy and completeness of defendant Danny Yahalom's
19 financial statement, defendant Oren Ben Elkanah's financial
20 statement, the testimony provided by defendant Danny Yahalom in
21 his deposition of May 15, 2000, and the testimony provided by
22 defendant Oren Ben Elkanah in his deposition of May 15, 2000.
23 Said financial statements and testimony contain material
24 information upon which the FTC has relied in negotiating and
25 agreeing to the terms of this Order. If, upon motion by the
26

1 Commission to the Court, the Court finds that an individual
2 defendant failed to submit to the Commission the sworn
3 statement required by Paragraph VII of this Order, or failed to
4 disclose any material asset with a value exceeding \$1,000, or
5 materially misrepresented the value of any asset, or made any
6 other material misrepresentation in or omission from their
7 financial statements or deposition testimony, the suspension of
8 the monetary judgment will be terminated and the entire
9 judgment amount of **SIX MILLION DOLLARS (\$6,000,000.00)**, less
10 any amounts paid to the Commission by defendants pursuant to
11 Section VI of this Order and any amounts paid to the Commission
12 by the Receiver pursuant to Section X of this Order, will be
13 immediately due and payable. For purposes of this Paragraph,
14 and any subsequent proceedings to enforce payment, including,
15 but not limited to, a non-dischargeability complaint filed in
16 a bankruptcy proceeding, each individual defendant stipulates
17 to all of the allegations in the Commission's Complaint.
18

19 **IX. LIFT OF ASSET FREEZE**

20 **IT IS FURTHER ORDERED** that the freeze of the individual
21 defendants' assets, imposed in the Preliminary Injunction
22 entered in this proceeding, shall be lifted upon the entry of
23 this Order.
24
25
26

1 X. RECEIVERSHIP

2 IT IS FURTHER ORDERED that the receivership imposed in the
3 Preliminary Injunction entered in this proceeding shall be
4 continued until such time as the Receiver has taken the
5 necessary steps to wind down the business of the receivership
6 defendant. Such necessary steps shall include canceling the
7 receivership defendant's contracts, liquidating the
8 receivership defendant's assets and taking such other steps as
9 may be necessary to terminate the receivership defendant
10 efficiently. The Receiver is directed to provide a report to
11 the Court which details the steps taken to dissolve the
12 receivership estate. The report shall include an inventory of
13 the receivership estate and an accounting of the receivership
14 estate's finances. Upon completion of the requirements of this
15 Section, the Receiver shall move that this Court order
16 termination of this receivership. At such time, the Receiver
17 shall make a final request for payment of compensation for the
18 performance of duties pursuant to the Preliminary Injunction
19 entered in this proceeding and the cost of actual out-of-pocket
20 expenses incurred. Once the Receiver has been compensated in
21 an amount approved by the Court, the Receiver shall transfer
22 all remaining funds of the receivership defendant to the
23 Commission for consumer redress or disgorgement as provided for
24 in Section XI of this Order. The Receiver shall promptly
25 return all other records of the receivership defendant in his
26

1 possession relating to its financial operation to the
2 individual defendants so that they may prepare and file all
3 necessary income tax returns.
4

5 **XI. USE OF CONSUMER REDRESS AND DISGORGEMENT FUNDS**

6 **IT IS FURTHER ORDERED** that:

7 A. The Commission shall deposit funds received from the
8 defendant and the Receiver pursuant to this Order in an
9 interest-bearing account pending final disposition of this
10 action as to all parties. Upon such final disposition, the
11 funds shall be used to provide redress to injured consumers and
12 to pay expenses of administering the redress fund;

13 B. If the Commission determines, in its sole discretion,
14 that redress to consumers is wholly or partially impracticable,
15 any funds not so used shall be deposited into the United States
16 Treasury, or may be used to educate consumers affected by the
17 practices set forth in the Commission's Complaint in this
18 matter. Defendants shall have no right to contest the manner
19 of distribution chosen by the Commission;

20 C. If the Commission determines that payment of redress
21 to consumers is not impracticable, the Commission shall submit
22 a plan for the disbursement of funds to the Court for review
23 and approval. In establishing this plan, the Commission shall
24 have full and sole discretion to determine the criteria and
25 parameters for participation by injured consumers in a redress
26

1 program, and may delegate any and all tasks connected with such
2 redress program to any individuals, partnerships, or
3 corporations, and pay the fees, salaries, and expenses incurred
4 thereby in carrying out said tasks from the funds received
5 pursuant to this Order.

6
7 **XII. RECORD KEEPING PROVISIONS**

8 **IT IS FURTHER ORDERED** that, for a period of five (5) years
9 from the date of entry of this Order, each individual
10 defendant, in connection with any and every business entity of
11 which he is a majority owner, or which he otherwise manages or
12 controls, is hereby restrained and enjoined from failing to
13 create, and to retain, in a location under his control, for a
14 period of three (3) years following the date of such creation,
15 unless otherwise specified:

16 A. Books, records and accounts that, in reasonable
17 detail, accurately and fairly reflect the cost of goods or
18 services sold, revenues generated, and the disbursement of such
19 revenues;

20 B. Records accurately reflecting: the name, address,
21 and telephone number of each person employed in any capacity by
22 such business, including as an independent contractor; that
23 person's job title or position; the date upon which the person
24 commenced work; and the date and reason for the person's
25 termination, if applicable. The businesses subject to this
26

1 Paragraph shall retain such records for any terminated employee
2 for a period of three (3) years following the date of
3 termination;

4 C. Records containing the names, addresses, phone
5 numbers, dollar amounts paid, quantity of items or services
6 purchased, and description of items or services purchased, for
7 all consumers to whom such business has sold, invoiced or
8 shipped any goods or services, or from whom such business
9 accepted money or other items of value;

10 D. Records that reflect, for every consumer complaint or
11 refund request, whether received directly or indirectly or
12 through any third party:

13 1. the consumer's name, address, telephone number
14 and the dollar amount paid by the consumer;

15 2. the written complaint or refund request, if any,
16 and the date of the complaint or refund request;

17 3. the basis of the complaint, including the name
18 of any salesperson complained against, and the nature and
19 result of any investigation conducted concerning any complaint;

20 4. each response and the date of the response;

21 5. any final resolution and the date of the
22 resolution; and

23 6. in the event of a denial of a refund request,
24 the reason for the denial; and

1 E. Copies of all sales scripts, training materials,
2 advertisements, or other marketing materials utilized; **provided**
3 that copies of all sales scripts, training materials,
4 advertisements, or other marketing materials utilized shall be
5 retained for three (3) years after the last date of
6 dissemination of any such materials.

7
8 **XIII. COMPLIANCE REPORTING**

9 **IT IS FURTHER ORDERED** that, in order that compliance with
10 the provisions of this Order may be monitored, for a period of
11 five (5) years commencing with the date of entry of this Order,
12 each of the individual defendants shall notify the Commission
13 of the following:

14 A. Any change of residence, mailing address or telephone
15 number, within ten (10) days of the date of such change;

16 B. Any change in employment status, self-employment,
17 within ten (10) business days of such change; such notice shall
18 include the name and address of each business with which he is
19 affiliated or employed, a statement of the nature of the
20 business, and a statement of his duties and responsibilities in
21 connection with the business; and

22 C. Any proposed change in the structure of any business
23 entity owned or controlled by him, such as creation,
24 incorporation, dissolution, assignment, sale, creation or
25 dissolution of subsidiaries, or any other changes that may
26

1 affect compliance obligations arising out of this Order, within
2 thirty (30) days prior to the effective date of any proposed
3 change; *provided, however*, that with respect to any proposed
4 change in structure of such business about which a defendant
5 learns, less than thirty (30) days prior to the date such
6 action is to take place, he shall notify the Commission as soon
7 as practicable after learning of such proposed change.

8
9 **XIV. ACCESS TO BUSINESS PREMISES**

10 **IT IS FURTHER ORDERED** that, for a period of five (5) years
11 from the date of entry of this Order, for the purpose of
12 further determining compliance with this Order, each individual
13 defendant shall permit representatives of the Commission,
14 within three (3) business days of receipt of written notice
15 from the Commission:

16 A. Access during normal business hours to any office, or
17 facility storing documents, of any business where an individual
18 defendant is the majority owner of the business or directly or
19 indirectly manages or controls the business. In providing such
20 access, each individual defendant shall permit representatives
21 of the Commission to inspect and copy all documents relevant to
22 any matter contained in this Order; and shall permit Commission
23 representatives to remove documents relevant to any matter
24 contained in this Order for a period not to exceed five (5)
25
26

1 business days so that the documents may be inspected,
2 inventoried, and copied; and

3 B. To interview the officers, directors, and employees,
4 including all personnel involved in responding to consumer
5 complaints or inquiries, and all sales personnel, whether
6 designated as employees, consultants, independent contractors
7 or otherwise, of any business to which Paragraph A of this
8 Section applies, concerning matters relating to compliance with
9 the terms of this Order. The person interviewed may have
10 counsel present. *Provided* that, upon application of the
11 Commission and for good cause shown, the Court may enter an
12 *ex parte* order granting immediate access to all premises at
13 which an individual defendant conducts business or stores
14 documents, for the purposes of inspecting and copying all
15 documents relevant to any matter contained in this Order.

16
17 **XV. FTC'S AUTHORITY TO MONITOR COMPLIANCE**

18 **IT IS FURTHER ORDERED** that the Commission is authorized to
19 monitor defendants' compliance with this Order by all lawful
20 means, including, but not limited to, the following:

21 A. The Commission is authorized, without further leave
22 of this Court, but on notice to counsel for defendants as
23 required by the Federal Rules of Civil Procedure, to obtain
24 discovery from any person in the manner provided by Chapter V
25 of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 26-37,
26

1 including the use of compulsory process pursuant to Federal R.
2 Civ. P. 45, for the purpose of investigating compliance with
3 any provision of this Order;

4 B. The Commission is authorized, without the necessity
5 of prior notice, to use representatives posing as consumers to
6 the individual defendants, and each of their employees, or any
7 other entity managed or controlled in whole or in part by an
8 individual defendant;

9 C. Nothing in this Order shall limit the Commission's
10 lawful use of compulsory process, pursuant to Sections 9 and 20
11 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, for the purpose of
12 investigation compliance with this Order or Section 5 of the
13 FTC Act, 15 U.S.C. § 45.

14
15 **XVI. ORDER DISTRIBUTION**

16 **IT IS FURTHER ORDERED** that, for a period of five (5) years
17 from the date of entry of this Order, the individual
18 defendants, and each of them, shall:

19 A. Immediately provide a copy of this Order to, and
20 obtain a signed and dated acknowledgment of receipt of the same
21 from, each officer, director and managing agent in any company
22 or other business entity directly or indirectly owned, operated
23 or controlled by such individual defendant; and

24 B. Maintain, and upon reasonable notice make available
25 to the FTC's representatives, the original and dated
26

1 acknowledgments of the receipts required by this Section of
2 this Order.

3
4 **XVII. NOTICES**

5 **IT IS FURTHER ORDERED** that for purposes of this Order, the
6 individual defendants shall, unless otherwise directed by the
7 Commission's authorized representatives, mail all written
8 notifications to the Commission to:

9
10 REGIONAL DIRECTOR
11 Federal Trade Commission
12 Re: **FTC v. International Business Network, Inc., et al.**
13 East Central Region
14 Eaton Center-Suite 200
15 1111 Superior Avenue
16 Cleveland, Ohio 44114-2507

17
18
19 **XVIII. WAIVER OF CLAIMS**

20 **IT IS FURTHER ORDERED** that defendants waive all claims
21 under the Equal Access to Justice Act, 28 U.S.C. § 2412, as
22 amended by Pub. L. 104-121, 110 Stat. 847, 863-64 (1996), and
23 all rights to seek appellate review or otherwise challenge or
24 contest the validity of this Order, or the temporary or
25 preliminary orders entered in this proceeding, and further
26 waive and release any claim they may have against the FTC, the
Receiver, or their employees, agents, or representatives, and
the Receiver waives all claims he may have against the
individual defendants.

1 **XIX. INDEPENDENCE OF OBLIGATIONS**

2 IT IS FURTHER ORDERED that the expiration of any
3 requirements imposed by this Order shall not affect any other
4 obligation arising under this Order.
5

6 **XX. COSTS AND ATTORNEYS FEES**

7 IT IS FURTHER ORDERED that each party to this Order bear
8 its own costs and attorneys fees incurred in connection with
9 this action.
10

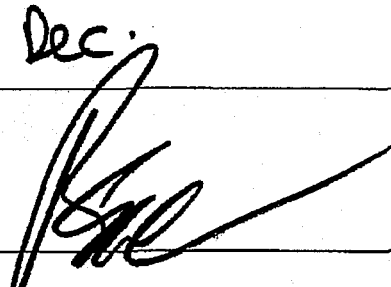
11 **XXI. CONTINUED JURISDICTION**

12 IT IS FURTHER ORDERED that this Court shall retain
13 jurisdiction of this matter for all purposes.
14

15 **XXII. ENTRY BY CLERK**


16 THERE BEING NO JUST REASON FOR DELAY, the Clerk of Court
17 is hereby directed to enter this Order.
18

19 SO ORDERED, this 14th day of Dec.

20
21
22 
23 Judge Manuel L. Real
24 United States District Judge
25
26

1 STIPULATED TO:

2 FOR PLAINTIFF
3 Federal Trade Commission



By: BRINLEY H. WILLIAMS
(Ohio Bar No. 0011793)
(216) 263-3414

5 Federal Trade Commission
6 East Central Region
7 Eaton Center-Suite 200
8 1111 Superior Avenue
9 Cleveland, Ohio 44114-2507

10 Date: 11/30/00

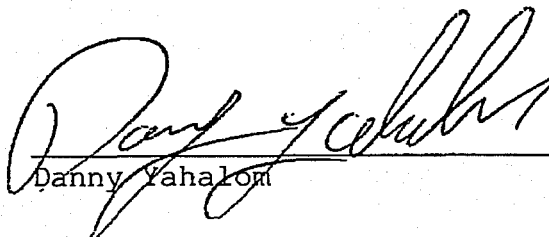
11
12 FOR DEFENDANTS

13 Oren Ben Elkanah,
14 individually.


Oren Ben Elkanah

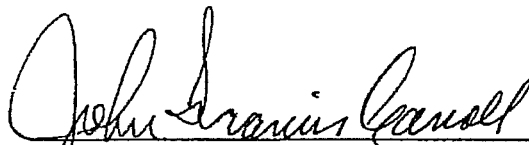
15 Date: 11-17-00

16
17
18 Danny Yahalom,
19 individually.


Danny Yahalom

20
21 Date: 11-17-00

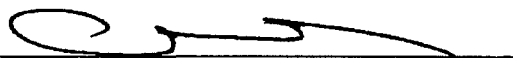
1 Court-Appointed Receiver
2 for International
3 Business Network, Inc.



4 **JOHN FRANCIS CARROLL, ESQ.**
5 John Francis Carroll, P.C.
6 824 West Ninth Street
7 San Pedro, CA 90731-9998
8 (310) 548-6001

9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
Date: 11/27/00

10 Attorney for Defendants
11 Oren Ben Elkanah and
12 Danny Yahalom



12 **ALAN B. PICK, ESQ.**
13 Pick & Boydston, LLP
14 523 W. Sixth St., Suite 1134
15 Los Angeles, CA 90014-1217
16 Phone (213) 624-1996

17
18
19
20
21
22
23
24
25
26
Date: 1/20/00