IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. UNITED MAINTENANCE SUPPLIES, INC., SONIA PISANO, individually and as an officer of the corporation, ARMANDO PIEMONTE, and DANIEL MARTINO, Defendants.	Civil Action No. 99 C 8163 Magistrate Judge Schenkier Y 000014

STIPULATED ORDER FOR PERMANENT INJUNCTION

Plaintiff, the United States of America, acting upon notification and authorization to the Attorney General by the Federal Trade Commission ("FTC" or "Commission"), has filed a complaint for permanent injunction and other equitable relief pursuant to Sections 5(a)(1), 5(m)(1)(A), 13(b), 16(a), and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), 56(a), and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act ("Telemarketing Act"), 15 U.S.C. §§ 6101 *et seq.*, charging defendants United Maintenance Supplies, Inc., Sonia Pisano, Armando Piemonte, and Daniel Martino (collectively "defendants") with deceptive acts and practices in connection with the sale, offering for sale, and distribution of nondurable office, cleaning, or janitorial supplies. The government's complaint alleges that these acts and practices violate Section 5(a) of the FTC Act, 15 U.S.C.

§ 45(a), and Sections 310.3(a)(4) and 310.4(d)(2) of the Telemarketing Sales Rule ("Telemarketing Rule"), 16 C.F.R. §§ 310.3(a)(4) and 310.4(d)(2).

The United States and defendants, having been represented by counsel and acting by and through such counsel, have consented to the entry of this Stipulated Order for Permanent Injunction with Consumer Redress and Other Equitable Relief ("Stipulated Order") without a trial or adjudication of any issue of law or fact herein.

NOW, THEREFORE, the United States and defendants, having requested the Court to enter this Stipulated Order, having considered the Stipulated Order reached among the parties and for other cause appearing, it is **ORDERED, ADJUDGED, AND DECREED** as follows:

FINDINGS

1. This is an action instituted under Sections 5(a)(1), 5(m)(1)(A), 13(b), 16(a), and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), 56(a), and 57b, and Sections 3 and 6 of the Telemarketing Act, 15 U.S.C. §§ 6102(c) & 6105(b). Pursuant to these sections of the FTC Act and the Telemarketing Act, the United States has the authority to seek the relief contained herein.

2. The complaint states a claim upon which relief may be granted against defendants under Sections 5, 13(b), and 19 of the FTC Act, 15 U.S.C. §§ 45, 53(b), & 57b, and the Telemarketing Rule, 16 C.F.R. Part 310.

3. This Court has jurisdiction over the subject matter of this case and all parties hereto. Venue in the Northern District of Illinois is proper.

4. The alleged activities of defendants are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

5. Defendants, without admitting the allegations set forth in the complaint, agree to entry of this Stipulated Order.

6. The parties shall each bear their own costs and attorney's fees incurred in this action and have waived all claims under the Equal Access to Justice Act, 28 U.S.C. § 2412, and all rights to seek judicial review, or otherwise to challenge the validity of this Stipulated Order.

7. Entry of this Stipulated Order is in the public interest.

ORDER

Definitions

1. **"Defendants"** means United Maintenance Supplies, Inc., Sonia Pisano, Armando Piemonte, and Daniel Martino, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, assigns, all other persons or entities directly or indirectly under their control or under common control with them, and all other persons or entities in active concert or participation with them, who receive actual notice of this Stipulated Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, in connection with the advertising, promoting, offering for sale, sale or distribution of any product or service, or in connection with any telephone solicitation.

2. **"Document"** is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which information can be obtained and translated, if necessary, through detection devices into

reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

3. **"Material"** means likely to affect a person's choice of, or conduct regarding, goods or services.

4. **"Person"** means any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.

5. **"Telemarketing"** means (except within the context of Section III, *infra* -- "Prohibited Business Activities Pursuant to the Telemarketing Rule") a 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 more than one interstate telephone call.

I.

PROHIBITED BUSINESS ACTIVITIES PURSUANT TO THE FTC ACT

IT IS HEREBY ORDERED that defendants are hereby permanently restrained and enjoined from:

A. Misrepresenting, directly or by implication, through, *inter alia,* telephone calls, letters, invoices, packing slips, delinquency notices, and/or shipment of nondurable office, cleaning, or janitorial supplies, that any person ordered nondurable office, cleaning, or janitorial supplies that were shipped and/or billed to them by defendants;

B. Misrepresenting, directly or by implication, any fact material to any person's decision to purchase any goods or services, including, but not limited to:

1. Misrepresenting that defendants are sending such person a free sample of nondurable office, cleaning, or janitorial supplies; or

2. Misrepresenting the purpose of any telephone call made by defendants to such a person;

C. Shipping any unordered goods to any person or requesting, demanding, or accepting payment for the shipment from any person for any shipment of any unordered goods, including, but not limited to, billing, invoicing, or charging the person; and

D. Shipping goods to any person without the prior express request or consent of the person, unless a clear and conspicuous statement is attached to the merchandise indicating that the person may treat the merchandise as a gift and has the right to retain, use, discard, or dispose of it in any manner the person sees fit without any obligation whatsoever.

II.

PROHIBITED BUSINESS ACTIVITIES
PURSUANT TO THE TELEMARKETING RULE

IT IS FURTHER ORDERED that defendants are hereby permanently restrained and enjoined from violating any provision of the Telemarketing Rule, 16 C.F.R. Part 310, including, but not limited to:

A. Violating Section 310.4(d)(2) of the Telemarketing Rule, 16 C.F.R. § 310.4(d)(2), by failing to disclose promptly and in a clear and conspicuous manner to the person receiving a call from defendants that the purpose of the call is to sell goods;

B. Violating Section 310.3(a)(4) of the Telemarketing Rule, 16 C.F.R. § 310.3(a)(4), by making false or misleading statements to induce the purchase of any product or service, including, but not limited to, misrepresentations that:

1. the supplies shipped and/or billed by defendants were ordered by the recipient;

2. defendants have previously done business with the organization or that defendants are the organization's regular supplier of such supplies;

3. defendants merely are "verifying" a previously placed order; or

4. defendants have a tape recording of the order being placed.

III.

RIGHT TO REOPEN

IT IS FURTHER ORDERED that within five (5) business days after the date of entry of this Stipulated Order, defendants shall each submit to the Commission a truthful sworn statement (in the form shown on **Appendix A** to this Stipulated Order) that shall reaffirm and attest to the truthfulness, accuracy, and completeness of their respective OBD-500 financial statements. The Plaintiff's and Commission's agreement to this Stipulated Order is expressly premised upon the financial condition of each defendant, as represented in their respective financial statements, which contain material information upon which the Plaintiff and the Commission relied in negotiating and agreeing upon this Stipulated Order.

If, upon motion of the United States, the Court finds that any defendant failed to file the sworn statement required by this Section, or that any defendant failed to disclose any material asset, materially misrepresented the value of any asset, or made any other material misrepresentation in or omission from the financial statement, the Court shall enter judgment against such defendant, in favor of the United States, in the amount of Eleven Thousand Dollars ($11,000.00), and the entire amount of the judgment shall become immediately due and payable, less any amount already paid.

Provided, however, that in all other respects, this judgment shall remain in full force and effect, unless otherwise ordered by the Court; and *provided further,* that proceedings instituted under this section are in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including but not limited to contempt proceedings, or any other

proceedings that the Commission or the United States might initiate to enforce this Stipulated Order.

IV.

CUSTOMER LISTS

IT IS FURTHER ORDERED that defendants are hereby permanently restrained and enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, social security number, or other identifying information of any person who paid any money to defendants, at any time prior to the date this Stipulated Order is entered, in connection with the sale of the products or services referenced in the complaint. *Provided, however*, that defendants may disclose such identifying information to a law enforcement agency or as required by any law, regulation, or court order.

V.

ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that, within five (5) business days after receipt by each defendant of this Stipulated Order as entered by the Court, each defendant shall submit to the Commission a truthful sworn statement, in the form shown on **Appendix B**, that shall acknowledge receipt of this Stipulated Order.

VI.

DISTRIBUTION OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Stipulated Order, the individual defendants shall:

A. Provide a copy of this Stipulated Order to, and obtain a signed and dated acknowledgment of receipt of same from, each officer or director, each individual serving in a management capacity, all personnel involved in responding to consumer complaints or inquiries, and all sales personnel, whether designated as employees, consultants, independent contractors or otherwise, immediately upon employing or retaining any such persons, for any business where any defendant is the majority owner of the business or directly or indirectly manages or controls the business, and where the business is engaged in telemarketing or the sale of nondurable office, cleaning, or janitorial supplies, or assists others engaged in these activities;

B. Maintain for a period of three (3) years after creation, and upon reasonable notice, make available to representatives of the United States or the Commission, the original signed and dated acknowledgments of the receipt of copies of this Stipulated Order, as required in Subsection (A) of this Section.

VII.

MONITORING BY DEFENDANTS

IT IS FURTHER ORDERED that, in connection with any business where any individual defendant is the majority owner of the business or directly or indirectly manages or controls the business, and where the business is engaged in telemarketing or the sale of nondurable office, cleaning, or janitorial supplies, or assists others engaged in these activities, defendants are hereby permanently restrained and enjoined from:

A. Failing to take reasonable steps sufficient to monitor and ensure that all employees and independent contractors engaged in sales or other customer service functions comply with Sections I and II of this Stipulated Order. Such steps shall include adequate

monitoring of sales presentations or other calls with customers, and shall also include, at a minimum, the following: (1) listening to the oral representations made by persons engaged in sales or other customer service functions; (2) establishing a procedure for receiving and responding to consumer complaints; and (3) ascertaining the number and nature of consumer complaints regarding transactions in which each employee or independent contractor is involved; provided that this Section does not authorize or require the defendant to take any steps that violate any federal, state, or local laws;

B. Failing to investigate promptly and fully any consumer complaint received by any business to which this Section applies; and

C. Failing to take corrective action with respect to any sales person whom defendant determines is not complying with this Stipulated Order, which may include training, disciplining, and/or terminating such sales person.

VIII.

RECORD KEEPING

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Stipulated Order, defendants, in connection with any business where one of them is the majority owner of the business or directly or indirectly manages or controls the business, and where the business is engaged in telemarketing or the sale of nondurable office, cleaning, or janitorial supplies, or assists others engaged in these activities, are hereby restrained and enjoined from failing to create, and from failing to retain for a period of three (3) years following the date of such creation, unless otherwise specified:

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

B. Records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by such business, including as an independent contractor; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable. Any business subject to this Section shall retain such records for any terminated employee for a period of two (2) years following the date of termination;

C. Records containing the names, addresses, telephone numbers, dollar amounts paid, quantity of items or services purchased, and description of items or services purchased, for all consumers to whom such business has sold, invoiced, or shipped any goods or services;

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

(1) the consumer's name, address, telephone number and the dollar amount paid by the consumer;

(2) the written complaint or refund request, if any, and the date of the complaint or refund request;

(3) the basis of the complaint, including the name of any sales person complained against, and the nature and result of any investigation conducted concerning any complaint;

(4) each response and the date of the response;

(5) any final resolution and the date of the resolution; and

(6) in the event of a denial of a refund request, the reason for the denial; and

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

IX.

COMPLIANCE REPORTING BY DEFENDANTS

IT IS FURTHER ORDERED that, in order that compliance with the provisions of this Stipulated Order may be monitored:

A. For a period of five (5) years from the date of entry of this Stipulated Order, defendants shall notify the Commission of the following:

(1) Any changes in any defendant's residence, mailing address, or telephone numbers, within ten (10) days of the date of such change;

(2) Any changes in any defendant's employment status (including self-employment) within ten (10) days of such change. Such notice shall include the name and address of each business that such defendant is affiliated with or employed by, a statement of the nature of the business, and a statement of defendant's duties and responsibilities in connection with the business or employment; and

(3) Any proposed change in the structure of any business entity owned or controlled by any defendant, such as creation, incorporation, dissolution, assignment, sale, merger, creation or dissolution of subsidiaries, proposed filing of a bankruptcy petition, or change in the corporate name or address, or any other change that could affect

compliance obligations arising out of this Stipulated Order, thirty (30) days prior to the effective date of any proposed change; *provided, however*, that, with respect to any proposed change in the business about which defendant learns less than thirty (30) days prior to the date such action is to take place, defendant shall notify the Commission as soon as is practicable after learning of such proposed change;

B. One hundred eighty (180) days after the date of entry of this Stipulated Order, each defendant shall provide a written report to the Commission, sworn to under penalty of perjury, setting forth in detail the manner and form in which that defendant has complied and is complying with this Stipulated Order. This report shall include but not be limited to:

(1) Each defendant's current residence address and telephone number;

(2) Each defendant's current employment, business addresses and telephone numbers, a description of the business activities of each such employer, and defendant's titles and responsibilities for each employer; and

(3) A statement describing the manner in which defendant has complied and is complying with Sections II and III of this Stipulated Order;

C. Upon written request by a representative of the Commission, defendants shall submit additional written reports (under oath, if requested) and produce documents on fifteen (15) days' notice with respect to any conduct subject to this Stipulated Order;

D. For the purposes of this Stipulated Order, defendants shall, unless otherwise directed by the Commission's authorized representatives, mail all written notifications to the Commission to:

Federal Trade Commission, Regional Director

Midwest Region
55 East Monroe Street, Suite 1860
Chicago, Illinois 60603
Re: FTC v. United Maintenance Supplies, Inc.;

E. For the purposes of this Section, "employment" includes the performance of services as an employee, consultant, or independent contractor; and "employers" include any individual or entity for whom defendants perform services as an employee, consultant, or independent contractor; and

F. For purposes of the compliance reporting required by this Section, the Commission is authorized to communicate directly with defendants.

X.

COMMISSION'S AUTHORITY TO MONITOR COMPLIANCE

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

A. The Plaintiff and the Commission are authorized, without further leave of Court, to obtain discovery from any person in the manner provided by Chapter V of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 26 - 37, including the use of compulsory process pursuant to Fed. R. Civ. P. 45, for the purpose of monitoring and investigating defendants' compliance with any provision of this Stipulated Order;

B. The Commission is authorized to use representatives posing as consumers and suppliers to any defendant, any defendant's employees, or any other entity managed or controlled in whole or in part by defendants, without the necessity of identification or prior notice; and

C. Nothing in this Stipulated Order shall limit 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, to investigate whether defendants have violated any provision of this Stipulated Order or Section 5 of the FTC Act, 15 U.S.C. § 45.

XI.

ACCESS TO BUSINESS PREMISES

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Stipulated Order, for the purpose of further determining compliance with this Stipulated Order, defendants shall permit representatives of the Commission, within three (3) business days of receipt of written notice from the Commission:

A. Access during normal business hours to any office, or facility storing documents, of any business where any defendant is the majority owner of the business or directly or indirectly manages or controls the business, and where the business is engaged in telemarketing or the sale of nondurable office, cleaning, or janitorial supplies, or assists others engaged in these activities. In providing such access, defendants shall permit representatives of the Commission to inspect and copy all documents relevant to any matter contained in this Stipulated Order; and shall permit Commission representatives to remove documents relevant to any matter contained in this Stipulated Order for a period not to exceed five (5) business days so that the documents may be inspected, inventoried, and copied; and

B. To interview the officers, directors, and employees, including all personnel involved in responding to consumer complaints or inquiries, and all sales personnel, whether designated as employees, consultants, independent contractors or otherwise, of any business to

terms of this Stipulated Order. The persons interviewed may have counsel present. *Provided that*, upon application of the Commission and for good cause shown, the Court may enter an *ex parte* order granting immediate access to defendants' business premises for the purposes of inspecting and copying all documents relevant to any matter contained in this Stipulated Order.

XII.

RETENTION OF JURISDICTION

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

The parties agree and stipulate to entry of the foregoing Stipulated Order, which shall constitute a final judgment in this action.

FOR THE UNITED STATES OF AMERICA:

DAVID W. OGDEN
Acting Assistant Attorney General
Civil Division
U.S. Department of Justice

SCOTT R. LASSAR
United States Attorney
Northern District of Illinois

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(312) 346-1337

ARMANDO PIEMONTE

SONIA PISANO

DANIEL MARTINO

IT IS SO ORDERED.

Dated: 02-06-07

HONORABLE SIDNEY I. SCHENKIER
United States Magistrate Judge

APPENDIX A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. UNITED MAINTENANCE SUPPLIES, INC., SONIA PISANO, individually and as an officer of the corporation, ARMANDO PIEMONTE, and DANIEL MARTINO, Defendants.	Civil Action No. 99 C 8163 Magistrate Judge Schenkier

I, Sonia Pisano, hereby state that the information contained in the Financial Statement of Defendant Sonia Pisano and related papers provided to the Federal Trade Commission on 9/22/00 [and as amended on _____, if applicable] was (were) true, accurate, and complete at such time.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 9/22/00 X Sonia Pisano

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. UNITED MAINTENANCE SUPPLIES, INC., SONIA PISANO, individually and as an officer of the corporation, ARMANDO PIEMONTE, and DANIEL MARTINO, Defendants.	)	Civil Action No. 99 C 8163 Magistrate Judge Schenkier

[Name of defendant], being duly sworn, hereby states and affirms as follows:

1. My name is Sonia Pisano. My current residence address is 10130 S. Springfield Chicago, IL 60642. I am a citizen of the United States and am over the age of eighteen. I have personal knowledge of the facts set forth in this Affidavit.

2. I am a defendant in *FTC v. United Maintenance Supplies, Inc., et al.*, (United States District Court for the Northern District of Illinois).

3. On [date], I received a copy of the Stipulated Order for Permanent Injunction with Consumer Redress and Other Equitable Relief which was signed by the Honorable Sidney I.

Schenkier, and entered by the Court on [date of entry of Order]. A true and correct copy of the Order I received is appended to this Affidavit.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on [date], at [city and state].

[Full name of Defendant]

State of Illinois
County of Cook

Subscribed and sworn to before me this _____ day of _____, _____.

_____
Notary Public
My Commission Expires:

_____

APPENDIX A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. UNITED MAINTENANCE SUPPLIES, INC., SONIA PISANO, individually and as an officer of the corporation, ARMANDO PIEMONTE, and DANIEL MARTINO, Defendants.	Civil Action No. 99 C 8163 Magistrate Judge Schenkier

I, Daniel Martino, hereby state that the information contained in the Financial Statement of Defendant Daniel Martino and related papers provided to the Federal Trade Commission on 6·23·00 [and as amended on _____ _____, if applicable] was [~~were~~] true, accurate, and complete at such time.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 6·23·00 X Daniel Martino

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, v. UNITED MAINTENANCE SUPPLIES, INC., SONIA PISANO, individually and as an officer of the corporation, ARMANDO PIEMONTE, and DANIEL MARTINO, Defendants.	)	Civil Action No. 99 C 8163 Magistrate Judge Schenkier

[Name of defendant], being duly sworn, hereby states and affirms as follows:

1. My name is Daniel Martino. My current residence address is 2338 Olive St, #2, Blue Island, IL 60406. I am a citizen of the United States and am over the age of eighteen. I have personal knowledge of the facts set forth in this Affidavit.

2. I am a defendant in *FTC v. United Maintenance Supplies. Inc., et al.,* (United States District Court for the Northern District of Illinois).

3. On [date], I received a copy of the Stipulated Order for Permanent Injunction with Consumer Redress and Other Equitable Relief which was signed by the Honorable Sidney I.

Schenkier, and entered by the Court on [date of entry of Order]. A true and correct copy of the Order I received is appended to this Affidavit.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on [date], at [city and state].

X Daniel Martinez
[Full name of Defendant]

State of Illinois
County of Cook

Subscribed and sworn to before me this 23 day of June, 2010.

Mark Weiner
Notary Public
My Commission Expires:
4.23.2003

"OFFICIAL SEAL"
MARK WEINER
NOTARY PUBLIC, STATE OF ILLINOIS
MY COMMISSION EXPIRES 4/23/2003