

Julian
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

FEDERAL TRADE COMMISSION,

Plaintiff,

vs.

BIGSMART.COM L.L.C., et al.,

Defendants.

CV-01 _____ PHX- _____

STIPULATED FINAL ORDER
APPROVING SETTLEMENT
AGREEMENT

This matter was presented to the Court pursuant to the "Motion For Order Approving Settlement Agreement By And Among Federal Trade Commission, Bigsmat, And Harris Trust And Savings Bank" (the "Settlement Approval Motion"). The Settlement Approval Motion was filed by the Plaintiff Federal Trade Commission and by the Defendant Bigsmat.Com L.L.C.; and Harris Trust and Savings Bank (which is not a party to the above-captioned action) and the Defendants Mark Tahiliani and Harry Tahiliani concur that the relief requested in the Settlement Approval Motion should be granted pursuant to this Order (the "Approval Order" or "Settlement Approval Order"). The Court believes that there is good cause to grant the Settlement Approval Motion and to resolve this matter without trial in this Settlement Approval Order. In support of this ruling, the Court expressly finds and orders as follows:

DEFINITIONS

For the purposes of this Approval Order, the following definitions apply:

A. "Bigsmart" means Bigsmart.Com L.L.C.

B. "Mark Tahiliani" means Mark Tahiliani, individually.

C. "Harry Tahiliani" means Harry Tahiliani, individually.

D. "Defendants" collectively means Mark Tahiliani, Harry Tahiliani, and Bigsmart.

E. "Consent Decree" means that certain Stipulated Final Judgment and Order for a Permanent Injunction entered by the District Court in the above-captioned action simultaneously with this Approval Order.

F. "Settlement Agreement" means the agreement dated February 14, 2001 entered into by and among the Commission, Bigsmart (with joinder and approval of the other Defendants as to certain specific provisions), and Harris, a true and correct copy of which is attached hereto as Appendix A.

F-1. "Harris Settlement Agreement" means the same as Settlement Agreement and is completely interchangeable with that term.

G. "Current Eligible Customer" means, as to any such party whose transactions with Bigsmart involve any interest of Harris which is the subject of the Settlement Agreement: (1) any current Bigsmart member who at the time of entry of this Approval Order: (a) owns or used to own one or more Bigsmart malls purchased after May 15, 2000; (b) purchased a Bigsmart ASP product to qualify for Phase II commissions; (c) received a voluntary credit issued by Bigsmart after May 15, 2000, as a result of the Maine Settlement, and used the credit to purchase an ASP product; and/or (d) received a voluntary credit issued by Bigsmart after May 15, 2000, as a result of the Maine Settlement, which either has not been redeemed or has expired; and (2) to the extent not covered by the definition in clause (1) above, all

1 Customers, Issuing Banks, and/or Exchanges (as those terms are defined in the Settlement
2 Agreement) during the Applicable Period (as that term is defined in the Settlement Agreement).

3 H. "Maine Settlement" means the Consent Decree entered by the Maine
4 Superior Court in Case No. CV-00-82 between the State of Maine and Bigsmart on May 15,
5 2000.

6 I. "Equity Receiver" means the receiver appointed by the District Court to
7 administer the Redress Fund in accordance with the terms of this Approval Order, the Consent
8 Decree, and the Settlement Agreement.

9 J. "Harris" means Harris Trust and Savings Bank.

10 K. "Card" shall have the same meaning as ascribed to such term in the
11 Settlement Agreement.

12 L. "Goods/Services" shall have the same meaning as ascribed to such term in
13 the Settlement Agreement.

14 M. "Merchant Agreement" shall have the same meaning as ascribed to such
15 term in the Settlement Agreement.

16 N. "Reserve Account" shall have the same meaning as ascribed to such term
17 in the Settlement Agreement.

18 O. "Reserve Account Balance" shall have the same meaning as ascribed to
19 such term in the Settlement Agreement.

20 P. "Harris Expenses" shall have the same meaning as ascribed to such term
21 in the Settlement Agreement.

22 Q. "Defenses" shall have the same meaning as ascribed to such term in the
23 Settlement Agreement.

24 R. "Determination Date" shall have the same meaning as ascribed to such
25 term in the Settlement Agreement.

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- 1 S. "*Harris Eligible Claims*" shall have the same meaning as ascribed to such
- 2 term in the Settlement Agreement.
- 3 T. "*Refund*" shall have the same meaning as ascribed to such term in the
- 4 Settlement Agreement.
- 5 U. "*Customer*" shall have the same meaning as ascribed to such term in the
- 6 Settlement Agreement.
- 7 V. "*Issuing Bank*" shall have the same meaning as ascribed to such term in the
- 8 Settlement Agreement.
- 9 W. "*Exchanges*" shall have the same meaning as ascribed to such term in the
- 10 Settlement Agreement.
- 11 X. "*Processing Agreement*" shall have the same meaning as ascribed to such
- 12 term in the Settlement Agreement.
- 13 Y. "*Notice*" shall have the same meaning as ascribed to such term in the
- 14 Settlement Agreement.
- 15 Z. "*Proof of Claim*" shall have the same meaning as ascribed to such term in
- 16 the Settlement Agreement.
- 17 AA. "*Claims Bar Date*" shall have the same meaning as ascribed to such term
- 18 in the Settlement Agreement.
- 19 BB. "*Chargeback*" shall have the same meaning as ascribed to such term in the
- 20 Settlement Agreement.
- 21 CC. "*Commission*" shall mean the plaintiff Federal Trade Commission.
- 22 CC-1 "*FTC*" means the same as Commission and is completely interchangeable
- 23 with that term.
- 24 DD. "*Redress Fund*" shall have the same meaning as ascribed to such term in
- 25 the Consent Decree.
- 26 EE. "*Approval Order*" means this Order.

1 EE-1. "Settlement Approval Order" means the same as Approval Order and is
2 completely interchangeable with that term.

3 **FINDINGS OF FACT**

4 **THE COURT HEREBY FINDS AS FOLLOWS:**

5 1. This Court has jurisdiction over the above-captioned action, its subject
6 matter, the Consent Decree which is being entered to resolve that action, and the
7 implementation of that Consent Decree, which includes and fully incorporates the Harris
8 Settlement Agreement. Accordingly, this Court has jurisdiction over the subject matter of this
9 Approval Order, the Settlement Agreement, the parties to the Settlement Agreement, the
10 Redress Fund and the administration thereof (which are central and critical under both the
11 Consent Decree and the Settlement Agreement), and all Current Eligible Customers that seek
12 to obtain or process a Refund or Chargeback, or to enforce any other right or obligation under
13 the Merchant Agreement or the Processing Agreement.

14 2. The parties to the Settlement Agreement have agreed to the entry of this
15 Approval Order freely and without coercion, and acknowledge that they understand the
16 provisions of the Settlement Agreement now approved by this Court and are prepared to abide
17 by them.

18 3. Venue in this district is proper under 28 U.S.C. §1391(b) and (c) and
19 15 U.S.C. §53(b).

20 4. Bigsmart is engaged in the business of providing goods and/or services
21 over the internet to Customers and accepts Cards for payment for such Goods/Services.

22 5. Harris is engaged in the business of providing for a fee electronic debit and
23 credit card authorization, processing, data capture, deposit, and clearing and settlement services.

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1 6. Harris and Bigsmart entered into the Merchant Agreement pursuant to
2 which Harris agreed to provide certain merchant banking services as set forth therein to
3 Bigsmart.

4 7. Harris processed the Card charges for certain Goods/Services during the
5 Applicable Period pursuant to the Merchant Agreement in an amount totaling approximately
6 \$23 million.

7 8. The Reserve Account was established pursuant to paragraph 4 of the
8 Merchant Agreement and Bigsmart was obligated to deposit funds to cover refund transactions
9 and chargebacks relating to, *inter alia*, chargebacks for Goods/Services.

10 9. Subject to various possible reductions, adjustments, and qualifications
11 expressly stated in the Settlement Agreement, all of which are acknowledged herein, the
12 Reserve Account Balance is approximately \$2.7 million.

13 10. Harris states that it was granted under the Merchant Agreement a valid
14 senior first perfected security interest in all funds in the Reserve Account as collateral for its
15 obligations to fund chargebacks and refunds pursuant to the Merchant Agreement and, as part
16 of the consideration for the Settlement Agreement and compliance and performance thereunder
17 by Harris, the other parties thereto have stipulated that they have not asserted any dispute and
18 do not dispute the validity and perfection of such security interest.

19 11. The FTC has filed a Complaint against Bigsmart and the other Defendants
20 alleging certain conduct relating to Bigsmart's business practices.

21 12. The FTC, Bigsmart, and the other Defendants have negotiated the Consent
22 Decree, pursuant to which a Redress Fund will be created to pay refunds of certain amounts, as
23 described in and calculated pursuant to the Consent Decree and the Settlement Agreement.

24 13. The Redress Fund established by the Consent Decree will be administered
25 by an Equity Receiver as set forth in the Consent Decree and the Settlement Agreement and is
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1 to be partially funded with the funds contained in the Reserve Account in the manner
2 contemplated by the Consent Decree and the Settlement Agreement.

3 14. The parties to the Settlement Agreement, subject to the terms and
4 conditions of the Settlement Agreement and the Consent Decree, have demonstrated a
5 reasonable, fair and equitable method to: (i) provide out of the Reserve Account a source of
6 payment for the Harris Eligible Claims including, but not necessarily limited to, such claims of
7 those who are Current Eligible Customers; and (ii) protect the interests of Harris from multiple
8 liabilities and those Current Eligible Customers who may be entitled to receive Refunds and/or
9 Chargebacks pursuant to paragraph 4 of the Merchant Agreement to the extent that they hold
10 any actual and allowable Refund and/or Chargeback claims.

11 15. The parties have entered into the Settlement Agreement for the purpose of,
12 *inter alia*, providing a means for certain funds to be obtained and distributed pursuant to the
13 Consent Decree, with all of the protections for Harris provided by the Settlement Agreement
14 and this Approved Order.

15 16. The appointment of an Equity Receiver is necessary and appropriate under
16 the circumstances, and such an Equity Receiver is being appointed pursuant to an Order entered
17 by this Court simultaneously with the entry of the Consent Decree and this Approval Order.
18 That Equity Receiver will be empowered to administer the Redress Fund as an asset of the
19 receivership estate under the jurisdiction of this Court and to oversee and implement the claims
20 process with respect to the Redress Fund. Accordingly, the Equity Receiver through this Court
21 will have jurisdiction over the parties to the Settlement Agreement and the Consent Decree, all
22 claimants having claims of any kind against Bigsmart for any Refund and/or Chargeback
23 (including all Current Eligible Customers) and all assets subject thereto, to enforce the terms
24 and provisions of this Approval Order, the Settlement Agreement, and the Consent Decree
25 pursuant to the powers of a federal equity receiver.

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1 17. The entire structure of the Settlement Agreement, including the provision
 2 for the appointment of an Equity Receiver: (i) is reasonable and necessary under the specific
 3 circumstances presented herein; (ii) presents an effective means to protect the interests of all
 4 parties to the Settlement Agreement (as well as Current Eligible Customers); and (iii) will
 5 prevent any interference with the Court's exercise of jurisdiction and its enforcement of the
 6 Consent Decree and this Approval Order. The Court and the Equity Receiver are entitled to
 7 exercise jurisdiction over all Current Eligible Customers to the extent necessary to enforce the
 8 provisions of this Approval Order, the Settlement Agreement, and the Consent Decree.

9 18. The injunction provisions set forth below in this Approval Order (which
 10 also will be included in the Court's Order establishing the Claims Bar Date) are reasonable and
 11 necessary to implement the provisions of the Settlement Agreement, this Approval Order, and
 12 the Consent Decree and are: (i) in furtherance of this Court's exercise of jurisdiction over all
 13 Current Eligible Customers so that all such claimants have a process to obtain payment of
 14 Refund and/or Chargeback claims; and (ii) are designed to prevent abuse of this Court's
 15 jurisdiction by Current Eligible Customers contrary to the terms of this Approval Order. The
 16 Court has jurisdiction over all Current Eligible Customers to enforce such injunction provisions.
 17 Bigsmart and Harris have demonstrated that they each possess a protectible legal right, that they
 18 have no adequate remedy at law, that they would suffer irreparable harm without the entry of
 19 the injunctive relief set forth below, and that a balancing of the equities favors the entry of such
 20 injunctive relief.

21 19. The Commission has consented to the terms of the Settlement Agreement
 22 and this Approval Order and that the Commission has found the same to be reasonable and
 23 necessary under the circumstances.

24 20. The parties to the Settlement Agreement, for good and valuable
 25 consideration, agreed to the terms of the Settlement Agreement and the provisions of this
 26 Approval Order, and the Settlement Agreement: (1) is a fair and reasonable settlement among

1 the parties; and (2) was negotiated and executed in good faith. The release, indemnity, and
2 reservation of rights provisions contained in the Settlement Agreement are binding and fully
3 enforceable as provided for therein.

4 21. There is good cause for the Court to approve the Settlement Agreement and
5 to enter this Approval Order, both factually and as a matter of law (including the legal
6 authorities presented in the Settlement Approval Motion). There has been due and proper notice
7 of the Consent Decree, the Settlement Agreement, the Settlement Approval Motion, the contents
8 of this Approval Order, and the simultaneous Motion and Order for the Court's appointment
9 of the Equity Receiver to the FTC, the Defendants, Harris, and the proposed Equity Receiver,
10 no objections have been asserted; and all the aforementioned parties have consented to all of
11 the requested relief. To the extent that any and all of the foregoing Findings by the Court
12 address factual matters, they are Findings of Fact; to the extent that they address legal matters,
13 they are Conclusions of Law; and to the extent that they address mixed factual and legal matters,
14 they are Findings of Fact or Conclusions of Law in accordance with whatever they address.

15 NOW, THEREFORE, based upon the foregoing Findings (whether Findings of
16 Fact, Conclusions of Law, or both), and good cause appearing, THE COURT HEREBY
17 ORDERS AS FOLLOWS:

18 A. IT IS HEREBY ORDERED that the Court hereby approves the Harris
19 Settlement Agreement in its entirety and incorporates the terms thereof into this Approval Order
20 as if fully set forth herein; and it is intended by this Approval Order to give effect to the
21 Settlement Agreement as an Order of this Court. The Court expressly adjudicates that the
22 procedures contemplated in the Settlement Agreement and this Approval Order benefit and
23 facilitate implementation of the Consent Decree and the cooperation of Harris in connection
24 therewith.

25 B. IT IS FURTHER ORDERED that, for the purposes of enforcing this
26 Approval Order, the Settlement Agreement, the Consent Decree, and any other Order(s) of this

1 Court which implement the terms of the Consent Decree, the Settlement Agreement, or this
 2 Approval Order, and for the purposes of the parties determining their obligations under this
 3 Approval Order, the Settlement Agreement, the Consent Decree, and any other Order(s) of this
 4 Court which implement the terms of the Consent Decree, the Settlement Agreement, or this
 5 Approval Order, the definition of Current Eligible Customer as set forth in the Consent Decree
 6 is hereby modified to be the following:

7 "Current Eligible Customer" means, as to any such party whose
 8 transactions with Bigsmat involve any interest of Harris which is
 9 the subject of the Settlement Agreement: (1) any current Bigsmat
 10 member who at the time of entry of this Approval Order: (a) owns
 11 or used to own one or more Bigsmat malls purchased after May
 12 15, 2000; (b) purchased a Bigsmat ASP product to qualify for
 13 Phase II commissions; (c) received a voluntary credit issued by
 14 Bigsmat after May 15, 2000, as a result of the Maine Settlement,
 15 and used the credit to purchase an ASP product; and/or (d) received
 16 a voluntary credit issued by Bigsmat after May 15, 2000, as a
 17 result of the Maine Settlement, which either has not been redeemed
 18 or has expired; and (2) to the extent not covered by the definition
 19 in clause (1) above, all Customers, Issuing Banks, and/or
 20 Exchanges (as those terms are defined in the Settlement
 21 Agreement) during the Applicable Period (as that term is defined
 22 in the Settlement Agreement).

23 C. IT IS FURTHER ORDERED that, within five (5) business days after the
 24 date of entry of this Approval Order, Bigsmat shall file a motion with this Court seeking the
 25 Court's approval of the Notice and the Proof of Claim forms, both of which shall contain the
 26 language contemplated by the Settlement Agreement to the satisfaction of Harris, which
 satisfaction shall not be unreasonably withheld. Within ten (10) business days after the date of
 entry of such Order approving the Notice and the Proof of Claim forms, Bigsmat shall submit
 a proposed Order to the Court in a form satisfactory to Harris, which satisfaction shall not be
 unreasonably withheld, which provides for the establishment of the Claims Bar Date as
 contemplated by the Settlement Agreement.

1 D. IT IS FURTHER ORDERED that, in addition to the obligations of the
 2 Defendants to deliver certain data concerning Current Eligible Customers as provided for in the
 3 Consent Decree, Bigsmart, ^{SHALL} provide to the Equity Receiver, on magnetic tape or other electronic
 4 medium, information sufficient to identify the Issuing Banks and/or Exchanges for each
 5 Customer (all as defined in the Settlement Agreement), so that the Notice and the Proof of
 6 Claim forms can be sent to such entities in accordance with the Settlement Agreement,

7 E. IT IS FURTHER ORDERED that Harris shall have no obligation or
 8 liability to pay the fees and other administrative expenses charged and incurred by the Equity
 9 Receiver, provided, however, that the Equity Receiver shall be entitled to pay those fees and
 10 other administrative expenses allowed by the Court from the Redress Fund.

11 F. IT IS FURTHER ORDERED that Harris shall have no liability to any
 12 Current Eligible Customer for any Harris Eligible Claim, Refund or Chargeback, or any
 13 deficiency therein, or for any rights or obligations under the Merchant Agreement, including
 14 but not limited to, paragraph 4 thereof and the Processing Agreement, and Harris shall be
 15 released and indemnified, and the rights of Harris shall further be reserved, as specifically
 16 provided for in Sections 2, 3, 4, 5 and 7 of the Settlement Agreement, and the Court adjudicates
 17 that such Sections of the Settlement Agreement, as well as the Settlement Agreement in its
 18 entirety, are fully effective and binding. All Current Eligible Customers are hereby enjoined
 19 as set forth below in Paragraph G and shall be limited to the remedies set forth in this Approval
 20 Order, the Settlement Agreement, and the Consent Decree.

21 G. IT IS FURTHER ORDERED that the sole remedy of Current Eligible
 22 Customers to obtain any right to payment from the Redress Fund, including on account of any
 23 Harris Eligible Claim, Chargeback or Refund, shall be those set forth in this Approval Order,
 24 the Consent Decree, the Settlement Agreement, and the Order to be entered by this Court
 25 establishing the Claims Bar Date. Further, all Current Eligible Customers are hereby
 26 permanently enjoined and forever barred (and the entry of the Order by this Court establishing

1 the Claims Bar Date shall be deemed to constitute due and proper notice to Current Eligible
2 Customers thereof) from:

3 1. On and after the date of entry of this Approval Order,
4 asserting any claims or causes of action against Harris and/or
5 Bigsmart for any claim or request for a Refund, Chargeback, Harris
6 Eligible Claim, or any deficiency therein, or for enforcement of any
7 rights or obligations under the Merchant Agreement, including, but
not limited to, paragraph 4 thereof or the Processing Agreement,
after the occurrence of the Claims Bar Date, and all such claims
made after the Claims Bar Date shall hereby be deemed
permanently enjoined, barred, extinguished and disallowed;

8 2. On and after the date of entry of this Approval Order,
9 seeking redress against Harris for any Harris Eligible Claim,
10 Chargeback, Refund, or any deficiency therein, or for enforcement
11 of any rights or obligations under the Merchant Agreement,
12 including, but not limited to, paragraph 4 thereof or the Processing
13 Agreement;

14 3. On and after the date of entry of this Approval Order,
15 initiating Chargeback procedures or taking any action directly or
16 indirectly causing Card Chargebacks to be processed against the
17 Card accounts with respect to charges for the purchase of any
18 Goods/Services from Bigsmart, which purchases were made before
19 entry of the Consent Decree and related to the Merchant Agreement
20 or the Processing Agreement; and

21 4. On and after the date of entry of this Approval Order,
22 accepting any Chargebacks, and from crediting the Card accounts
23 of Customers who submit Refund requests pursuant to the Consent
24 Decree, and from causing Chargebacks to be processed through the
25 credit card system.

26 H. IT IS FURTHER ORDERED that all Current Eligible Customers that have
made and/or are currently making or prosecuting requests for Refunds, Chargebacks, and related
disputes prior to the date of this Approval Order, or hereafter, are hereby enjoined from taking
any further action with respect to the same, and such Current Eligible Customers' sole remedy
going forward is to follow the procedures that are set forth for processing claims under the
Settlement Agreement, the Consent Decree, this Approval Order, and any other applicable
Order(s) entered by this Court.

1 I. IT IS FURTHER ORDERED, pursuant to a stipulation by the parties
2 submitting this Approved Order that extends one (1) Settlement Agreement deadline, that within
3 ten (10) days after the occurrence of the Claims Bar Date, the Equity Receiver shall determine
4 the aggregate amount of the Harris Eligible Claims, as well as the amounts thereof which the
5 Equity Receiver believes should be allowed, and the Equity Receiver shall provide notice of the
6 same in the manner prescribed in the Settlement Agreement. Objections, if any, shall be made
7 in accordance with the terms and time restrictions of the Settlement Agreement.

8 J. IT IS FURTHER ORDERED that any Harris Eligible Claim payable to any
9 Current Eligible Customer shall be reduced by, and may be extinguished and disallowed by, all
10 Defenses as provided for in the Settlement Agreement.

11 K. IT IS FURTHER ORDERED that the Court hereby approves and consents
12 to the procedures for the priority of payments from the Redress Fund as provided for in Section
13 2 of the Settlement Agreement.

14 L. IT IS FURTHER ORDERED that the Court hereby acknowledges the
15 consent of the Commission as set specifically forth in Section 6 of the Settlement Agreement
16 and further orders that: (A) nothing contained in this Order or the Settlement Agreement relates
17 to, contemplates, or in any way suggests that there is any basis for any known or unknown claim
18 against Harris for violation of any applicable law or regulation, including, but not limited to,
19 any FTC rule or regulation, any credit card rule, or the Truth in Lending Act and Fair Debt
20 Collection Practices Act arising from any transaction with Bigsmart which is the subject of the
21 Settlement Agreement; and (B) all claims and allegations contained in the Complaint relate
22 solely to alleged conduct of the Defendants and not in any way to Harris and its parents,
23 subsidiaries, directors, officers, employees, agents, and attorneys.

24 M. IT IS FURTHER ORDERED that the parties to the Settlement Agreement
25 are fully authorized to perform their respective obligations thereunder and under this Approval
26

1 Order, the Consent Decree, and any other Order(s) of the District Court implementing the
2 Settlement Agreement, the Consent Decree or this Approval Order.

3 N. IT IS FURTHER ORDERED that the Court is entering this Approval
4 Order to implement the Settlement Agreement and the Consent Decree. The Court does not
5 intend by the language of this Approval Order to change or limit any provision agreed upon in
6 the Consent Decree and/or the Settlement Agreement; and this Approval Order does not, and
7 shall not, do so.

8 O. IT IS FURTHER ORDERED that this Approval Order shall be entered as,
9 and shall be, a final order of the Court for all purposes.

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P. ^{PCB} IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all purposes.

There being no just cause for delay, this Stipulated Final Order Approving Settlement Agreement is hereby entered this _____ day of _____, 2001.

UNITED STATES DISTRICT JUDGE

APPROVED AS TO FORM AND CONTENT:

FEDERAL TRADE COMMISSION

By: _____
David Eric
James Davis
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

_____ Date

U.S. ATTORNEY'S OFFICE, DISTRICT OF ARIZONA

By: _____
Jose de Jesus Rivera
Ann P. Harwood
David Duncan
230 North First Avenue, Room 4000
Phoenix, Arizona 85025-0085

_____ Date


HARRIS TRUST AND SAVINGS BANK

By: Dianna Williams
Dianna Williams
111 West Monroe Street
Chicago, IL 60603

_____ Date


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

3 There being no just cause for delay, this Stipulated Final Order Approving
4 Settlement Agreement is hereby entered this 21 day of MARCH, 2001.


5
6 
7 UNITED STATES DISTRICT JUDGE

8 APPROVED AS TO FORM AND
9 CONTENT:

9 FEDERAL TRADE COMMISSION

10 
11 By: David E. Dunham, ASB, Authorized by 3-12-01
12 David Fix Date
13 James Davis
14 600 Pennsylvania Avenue, NW
15 Washington, D.C. 20580

14 U.S. ATTORNEY'S OFFICE, DISTRICT OF ARIZONA

15
16 
17 By: _____ 3-12-01
18 Jose de Jesus RIVERA Date
19 Ann E. Harwood
20 David Duncan
21 230 North First Avenue, Room 4000
22 Phoenix, Arizona 85025-0085

20 HARRIS TRUST AND SAVINGS BANK

21
22
23 By: _____ Date
24 Diana Williams
25 111 West Monroe Street
26 Chicago, IL 60603

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DEFENDANTS:

BIGSMART.COM LLC.

By: 
1201 South Alma School Road
Mesa, AZ

3/12/01

Date

MARK TAHILLANI
1201 South Alma School Road
Mesa, AZ

Date

3/12/01

HARRY TAHILLANI
1201 South Alma School Road
Mesa, AZ

Date

3/12/01

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APPENDIX A

COPY OF HARRIS SETTLEMENT AGREEMENT