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FILED
CLERK, U.S. DISTRICT COURT
JUN 19 2001
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY
BY *8/6/01*

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JUN 20 2001
CLERK, U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY
BY *[Signature]*

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CLERK, U.S. DISTRICT COURT
JUN 18 2001
CENTRAL DISTRICT OF CALIFORNIA
DEPUTY
BY *[Signature]*

10 Attorneys for Plaintiff
11 FEDERAL TRADE COMMISSION

12 IN THE UNITED STATES DISTRICT COURT
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

15 FEDERAL TRADE COMMISSION,
16 Plaintiff,
17 v.
18 ALLSTATE BUSINESS DISTRIBUTION
CENTER, INC., a California
19 corporation doing business as
20 PRIMARY DISTRIBUTION CENTER, and
21 ROBERT MATZ, individually and as
22 an officer of the corporation,
23 Defendants.

) Civil No. 00-10335AHM (CTx)
)
) Judge A. Howard Matz
)
) Magistrate Judge Carolyn Turchin

**STIPULATED PERMANENT
INJUNCTION AND FINAL
JUDGMENT ORDER**

- Docketed
- Copies / NIC Sent
- JS - 5 / JS - 6
- JS - 2 / JS - 3
- CLSD

24 Plaintiff, the Federal Trade Commission ("FTC" or
25 "Commission"), has filed it's First Amended Complaint
26 ("Complaint") for permanent injunction and other equitable relief
27 pursuant to Sections 13(b) and 19 of the Federal Trade Commission
28 Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing

15

1 and Consumer Fraud and Abuse Prevention Act ("Telemarketing Act"),
2 15 U.S.C. §§ 6101 et seq., charging defendant Allstate Business
3 Distribution Center, Inc. ("Allstate"), doing business as Primary
4 Distribution Center, and Robert Matz (collectively "defendants"),
5 with deceptive acts and practices in connection with the sale,
6 offering for sale, and distribution of nondurable office supplies,
7 including photocopier toner and dry ink cartridges, in violation
8 of Section 5 of the FTC Act, 15 U.S.C. § 45(a), and the FTC's
9 Telemarketing Sales Rule ("Telemarketing Rule"), 16 C.F.R. Part
10 310.

11 The Commission and defendants, having been represented by
12 counsel and acting by and through such counsel, have consented to
13 the entry of this Stipulated Permanent Injunction And Final
14 Judgment Order ("Stipulated Order") without a trial or
15 adjudication of any issue of law or fact herein.

16 NOW, THEREFORE, the Commission and defendants, having
17 requested the Court to enter this Stipulated Order, and the Court
18 having considered the Stipulated Order reached among the parties,
19 it is **ORDERED, ADJUDGED, AND DECREED** as follows:

20 **FINDINGS**

21 '1. This is an action by the Commission instituted under
22 Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b,
23 and the Telemarketing and Consumer Fraud and Abuse Prevention Act,
24 15 U.S.C. § 6101 et seq. The Complaint seeks permanent injunctive
25 relief and consumer redress against defendants Allstate Business
26 Distribution Center, Inc., and Robert Matz, in connection with the
27 sale of nondurable office supplies.

28 //

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

5 3. This Court has jurisdiction over the subject matter of
 6 this case and all parties hereto. Venue in the Central District
 7 of California is proper.

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

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

14 6. Defendants, without admitting the allegations set forth
 15 in the Complaint, except those contained in Paragraphs 1 through 5
 16 herein, agree to entry of this Stipulated Order. The FTC, by
 17 executing this Order does not admit that any defense to the
 18 Complaint is valid.

19 7. This action and the relief awarded herein is in addition
 20 to, and not in lieu of, other remedies as may be provided by law,
 21 including both civil and criminal remedies. The Commission
 22 intends for this Stipulated Order to constitute a complete
 23 settlement of its claims against the defendants for the matters
 24 alleged in its First Amended Complaint.

25 8. Defendants Allstate Business Distribution Center, Inc.,
 26 and Robert Matz, enter into this Order freely and without
 27 coercion, and acknowledge that they understand the provisions of
 28 this Order and are prepared to abide by its terms. At all times,

1 the defendants have been represented by counsel, including the
2 negotiations that led to this Order.

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

8 10. Entry of this Stipulated Order is in the public
9 interest.

10 ORDER

11 Definitions

12 1. "Defendants" means Allstate Business Distribution
13 Center, Inc., doing business as Primary Distribution Center, and
14 Robert Matz, and their officers, agents, directors, servants,
15 employees, salespersons, independent contractors, corporations,
16 subsidiaries, affiliates, successors, assigns, all other persons
17 or entities directly or indirectly under their control or under
18 common control with them, and all other persons or entities in
19 active concert or participation with them, who receive actual
20 notice of this Stipulated Order by personal service or otherwise,
21 whether acting directly or through any trust, corporation,
22 subsidiary, division, or other device.

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

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

3 3. **"Telemarketing"** means any business activity (which
4 includes, but is not limited to (a) initiating or receiving
5 telephone calls; (b) managing others who initiate or receive
6 telephone calls; (c) operating an enterprise that initiates or
7 receives telephone calls; (d) owning or serving as an officer or
8 director of an enterprise that initiates or receives telephone
9 calls; or (e) otherwise working as an employee or independent
10 contractor within a unit or division of an enterprise that
11 initiates or receives telephone calls) that involves attempts to
12 induce consumers to purchase any item, good, service, partnership
13 interest, trust interest or other beneficial interest, or to enter
14 a contest for a prize, by means of telephone sales presentations,
15 either exclusively or in conjunction with the use of other forms
16 of marketing. Provided that the term telemarketing shall not
17 include transactions that are not completed until after a face-to-
18 face contact between the seller or solicitor and the consumer
19 solicited.

20 4. **"Consumer"** means any person, including any individual,
21 group, unincorporated association, limited or general partnership,
22 corporation, or other business entity.

23 5. **"Person"** means any individual, group, independent
24 contractor, unincorporated association, limited or general
25 partnership, corporation, or other business entity.

26 6. **"Assisting others"** means knowingly providing any of the
27 following goods or services to another entity: (a) performing
28 customer service functions, including, but not limited to,

1 receiving or responding to consumer complaints; (b) formulating or
2 providing, or arranging for the formulation or provision of, any
3 telephone sales script or any other marketing material;
4 (c) providing names of, or assisting in the generation of,
5 potential customers; (d) shipping nondurable office supplies to
6 consumers, or assisting in the shipment of said supplies to
7 consumers; (e) billing consumers for nondurable office supplies,
8 or assisting in the billing of said supplies to consumers; (f)
9 collecting payment for nondurable office supplies sent to
10 consumers, or assisting in the collection of payment for said
11 supplies from consumers; (g) providing or otherwise supplying, or
12 assisting in the provision or supplying of, nondurable office
13 supplies to others engaged in the telemarketing, advertising,
14 offering for sale, sale or distribution of nondurable office
15 supplies to consumers; or, (h) performing marketing services of
16 any kind.

17 I.

18 PROHIBITED BUSINESS ACTIVITIES PURSUANT TO THE FTC ACT

19 IT IS THEREFORE ORDERED that, in connection with the
20 advertising, marketing, promoting, offering for sale, sale or
21 distribution of any good or service, defendants and each of their
22 agents, servants, employees, attorneys, and all persons or
23 entities directly or indirectly under their control, and all other
24 persons or entities in active concert or participation with them,
25 who receive actual notice of this Order by personal service or
26 otherwise, and each such person, whether acting directly or
27 through any corporation, limited liability company, subsidiary;

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1 division or other device, are hereby permanently restrained and
2 enjoined from:

3 A. Misrepresenting, expressly or by implication, that any
4 consumer, or any consumer's employee or other representative,
5 ordered any good or service that was shipped and/or billed to
6 them;

7 B. Misrepresenting, expressly or by implication, any fact
8 material to a consumer's decision to purchase or accept any good
9 or service;

10 C. Misrepresenting, to any consumer, or any consumer's
11 employee or representative, expressly or by implication, that
12 defendants have previously transacted business with the consumer;

13 D. Misrepresenting, expressly or by implication, that
14 defendants are associated with a consumer's regular supplier or
15 provider of a good or service, or associated with the manufacturer
16 of any product or equipment used by the consumer in conjunction
17 with the good or service;

18 E. Making any misrepresentation, expressly or by
19 implication, regarding the price of the product or service;

20 F. Making any misrepresentation, regarding the distribution
21 or availability of any good or service; and,

22 G. Assisting others who engage in any of the conduct
23 outlined in Paragraphs A through F of this Section.

24 II.

25 PROHIBITED BUSINESS ACTIVITIES

26 PURSUANT TO THE TELEMARKETING RULE

27 IT IS FURTHER ORDERED that defendants and their agents,
28 servants, employees, attorneys, and all persons or entities

1 directly or indirectly under their control, and all other persons
 2 or entities in active concert or participation with them who
 3 receive actual notice of this Order by personal service or
 4 otherwise, and each such person, whether acting directly or
 5 through any corporation, limited liability company, subsidiary,
 6 division or other device, are hereby permanently restrained and
 7 enjoined from:

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

18 B. Violating Section 310.4(d)(1) of the Telemarketing Sales
 19 Rule, 16 C.F.R. § 310.4(d)(1), by failing to disclose the identity
 20 of the seller to the person receiving the call, promptly and in a
 21 clear and conspicuous manner, in "outbound telephone calls," as
 22 that term is defined in the Telemarketing Sales Rule, 16 C.F.R.
 23 § 310.2(n);

24 C. Violating Section 310.3(b) of the Telemarketing Sales
 25 Rule, 16 C.F.R. § 310.3(b), by providing substantial assistance or
 26 support to any seller or telemarketer when that person knows or
 27 consciously avoids knowing that the seller or telemarketer is
 28 engaged in any act or practice that violates Section 310.3(a),

1 Section 310.3(c), or Section 310.4, of the Telemarketing Sales
2 Rule, 16 C.F.R §§ 310.3(a), 310.3(c) or 310.4; or

3 D. Violating or assisting others in violating any other
4 provision of the Telemarketing Sales Rule, 16 C.F.R. Part 310.

5 A copy of the Telemarketing Sales Rule is appended to this
6 Order as **Attachment A** and is incorporated herein as if fully
7 rewritten. In the event that the Telemarketing Sales Rule is
8 amended by the Commission in a manner which would create a new or
9 different standard applicable to defendants' obligations under
10 this Stipulated Order, defendants' compliance with the
11 Telemarketing Sales Rule as so amended shall not be deemed a
12 violation of this Order.

13 **III.**

14 **CUSTOMER LISTS AND ACCOUNTS RECEIVABLES**

15 **IT IS FURTHER ORDERED** that defendants and their agents,
16 servants, employees, attorneys, and all persons or entities
17 directly or indirectly under their control, and all other persons
18 or entities in active concert or participation with them who
19 receive actual notice of this Order by personal service or
20 otherwise, and each such person, whether acting directly or
21 through any corporation, limited liability company, subsidiary,
22 division or other device, are permanently restrained and enjoined
23 from:

24 A. Selling, renting, leasing, transferring, or otherwise
25 disclosing the name, address, telephone number, credit card
26 number, social security number, bank account number, or other
27 identifying information of any person who paid any money to
28 defendant Allstate Business Distribution Center, Inc., in

1 connection with the offering for sale, sale or distribution of any
2 good or service, *provided, however*, that defendants may disclose
3 such identifying information to a law enforcement agency or as
4 required by any law, regulation, or court order; and,

5 B. Collecting or attempting to collect on accounts arising
6 from the shipment of nondurable office supplies shipped after
7 January 1, 1998, to the date of this Stipulated Order.

8 IV.

9 EXISTING INVENTORY

10 IT IS FURTHER ORDERED that within ten (10) days of the entry
11 of this Stipulated Order by the Court the defendants shall dispose
12 of all existing inventory of nondurable office supplies, either by
13 returning that inventory to the supplier from which the inventory
14 was purchased or otherwise obtained, or by delivering the
15 inventory to a charitable organization to be agreed upon between
16 defendants and the Commission. At the expiration of the ten (10)
17 day period, Defendant Robert Matz shall provide the Commission
18 with proof of defendants' compliance with this Section by
19 submitting a truthful sworn statement to the Commission in the
20 form shown on Appendix A of this Stipulated Order.

21 V.

22 MONETARY RELIEF

23 IT IS FURTHER ORDERED that:

24 A. Defendants Allstate Business Distribution Center, Inc.,
25 and Robert Matz, are jointly and severally liable for payment of
26 equitable monetary relief in the amount of **Ten Thousand Dollars**
27 **(\$10,000.00)**. The monetary relief ordered herein does not
28 constitute full compensation for the monetary harm alleged in the

1 Complaint in this action, and is not accepted as such. Defendants
 2 shall pay this amount to the Commission prior to or concurrently
 3 with their execution of this Stipulated Order, by cashier's or
 4 certified check made payable to the Federal Trade Commission.
 5 Said payment shall be sent to Director, Federal Trade Commission,
 6 Midwest Region, 55 East Monroe, Suite 1860, Chicago, Illinois
 7 60603. By signing this Order, the defendants relinquish all
 8 dominion, control and title to the monies transferred to the FTC,
 9 and agree that all legal and equitable title to said monies is
 10 vested in the Commission, for use according to the terms of this
 11 Order. In the event this Order is not approved by the Commission
 12 all monies shall be returned to the defendants (including any
 13 accrued interest, minus expenses);

14 B. The funds paid by defendants pursuant to this Stipulated
 15 Order shall be deposited into a redress fund, administered by the
 16 Commission, to be used for equitable relief including, but not
 17 limited to, consumer redress and any attendant expenses for the
 18 administration of any redress fund. If the Commission determines,
 19 in its sole discretion, that redress to purchasers is wholly or
 20 partially impracticable, any funds not so used shall be paid to
 21 the United States Treasury in lieu of redress. Defendants shall
 22 have no right to contest the manner of distribution chosen by the
 23 Commission. The Commission in its sole discretion may use a
 24 designated agent to administer consumer redress. The Commission
 25 and defendants acknowledge and agree that this judgment for
 26 equitable monetary relief is solely remedial in nature and is not
 27 a fine, penalty, punitive assessment, or forfeiture;

28 //

1 C. Defendants are hereby required, in accordance with 31
2 U.S.C. § 7701, to furnish to the Commission their respective
3 taxpayer identifying numbers (social security numbers or employer
4 identification numbers), which shall be used for purposes of
5 collecting and reporting on any delinquent amount arising out of
6 such persons' relationship with the government; and,

7 D. Defendants agree that the facts as alleged in the
8 Complaint filed in this action shall be taken as true in any
9 subsequent litigation filed by the Commission to enforce its
10 rights pursuant to this Order, including but not limited to a
11 nondischargeability complaint in any bankruptcy proceeding.

12 VI.

13 RIGHT TO REOPEN

14 IT IS FURTHER ORDERED that within ten (10) business days
15 after the date of entry of this Stipulated Order by the Court,
16 defendants Allstate Business Distribution Center, Inc., and Robert
17 Matz, shall each submit to the Commission a truthful sworn
18 statement (in the form shown on **Appendices B and C** to this
19 Stipulated Order) that shall reaffirm and attest to the
20 truthfulness, accuracy, and completeness of their respective
21 financial statements, namely that of Allstate Business
22 Distribution Center, Inc., dated October 9, 2000, and those of
23 Robert Matz, dated October 9, 2000 and February 26, 2001, and
24 other supplemental documents and information provided by counsel
25 for defendants' to the Commission in letters dated November 6,
26 2000, November 28, 2000, February 19, 2001, and February 26, 2001,
27 in support of defendants' respective financial statements. The
28 Commission's agreement to this Stipulated Order is expressly

1 premised upon the financial condition of each defendant, as
 2 represented in their respective financial statements and
 3 supplemental documents, which contain material information upon
 4 which the Commission relied in negotiating and agreeing upon this
 5 Stipulated Order.

6 If, upon motion of the Commission, the Court finds that the
 7 defendants failed to submit the sworn statement required by this
 8 Section to the Commission, or that either defendant failed to
 9 disclose any material asset, or materially misrepresented the
 10 value of any asset, or made any other material misrepresentation
 11 in or omission from the financial statement, the Court shall enter
 12 judgment against said defendant in favor of the Commission in an
 13 amount equal to the value of the discovered asset, and the entire
 14 amount of the judgment shall become immediately due and payable.
 15 Upon entry of a judgment against either defendant by the Court,
 16 the defendants further agree to authorize any third party,
 17 including but not limited to, banks, savings and loan
 18 institutions, pension funds, escrow agents, title companies,
 19 brokerage firms, commodity trading companies, business entities,
 20 or other financial institutions of any kind, in possession of any
 21 assets or funds belonging to or owed to the defendants, to
 22 transfer the assets or funds to the Commission in full or partial
 23 satisfaction of the judgment. Said funds are to be transferred to
 24 the Commission by cashier's or certified check made payable to the
 25 Federal Trade Commission, and mailed to the Director, Midwest
 26 Region, Federal Trade Commission, 55 East Monroe, Suite 1860,
 27 Chicago, Illinois.

28 //

1 *Provided, however, that in all other respects, this judgment*
 2 shall remain in full force and effect, unless otherwise ordered by
 3 the Court; and *provided further, that proceedings instituted under*
 4 *this section are in addition to, and not in lieu of, any other*
 5 *civil or criminal remedies that may be provided by law, including*
 6 *but not limited to contempt proceedings, or any other proceedings*
 7 *that the Commission or the United States might initiate to enforce*
 8 *this Stipulated Order.*

VII.

ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANTS

11 **IT IS FURTHER ORDERED** that, within ten (10) business days
 12 after receipt by each defendant of this Stipulated Order as
 13 entered by the Court, each defendant shall submit to the
 14 Commission a truthful sworn statement, in the form shown on
 15 **Appendix D**, that shall acknowledge receipt of this Stipulated
 16 Order.

VIII.

DISTRIBUTION OF ORDER BY DEFENDANTS

19 **IT IS FURTHER ORDERED** that, for a period of five (5) years
 20 from the date of entry of this Stipulated Order, where Defendant
 21 Matz is the majority owner of a business or directly or indirectly
 22 manages or controls the business, and where the business is
 23 engaged in the telemarketing, advertising, offering for sale, sale
 24 or distribution of nondurable office supplies, or in assisting
 25 others engaged in those activities, the defendants shall:

- 26 A. Provide a copy of this Stipulated Order to, and obtain a
- 27 signed and dated acknowledgment of receipt of same from, (1) each
- 28 officer or director, each individual serving in a management

1 capacity, all personnel involved in responding to consumer
2 complaints or inquiries, and all sales personnel, whether
3 designated as employees, consultants, independent contractors or
4 otherwise, immediately upon employing or retaining any such
5 persons; and, (2) every person that the business is assisting in
6 any way in marketing, selling or distributing nondurable office
7 supplies; and

8 B. Maintain for a period of three (3) years after creation,
9 and upon reasonable notice, make available to representatives of
10 the Commission, the original signed and dated acknowledgments of
11 the receipt of copies of this Stipulated Order, as required in
12 subsection (A) of this Section.

13 IX.

14 RECORD KEEPING

15 IT IS FURTHER ORDERED that, for a period of five (5) years
16 from the date of entry of this Stipulated Order, defendants, in
17 connection with any business where Defendant Matz is the majority
18 owner of the business or directly or indirectly manages or
19 controls the business, and where the business is engaged in the
20 telemarketing, advertising, offering for sale, sale or
21 distribution of nondurable office supplies, or assisting others
22 engaged in the telemarketing, advertising, offering for sale, sale
23 or distribution of nondurable office supplies, are hereby
24 restrained and enjoined from failing to create, and from failing
25 to retain for a period of three (3) years following the date of
26 such creation, unless otherwise specified:

27 //
28 //

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

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

12 C. Records containing the name, address, telephone number
13 of each consumer to whom such business has, directly or
14 indirectly, sold, invoiced, or shipped any goods or services, the
15 dollar amounts paid by the consumer, quantity of items or services
16 purchased, and description of items or services purchased;

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

20 1. The consumer's name, address, telephone number and
21 the dollar amount paid by the consumer;

22 2. The written complaint or refund request, if any,
23 and the date of the complaint or refund request;

24 3. The basis of the complaint, including the name of
25 any sales person or independent contractor complained
26 against, and the nature and result of any investigation
27 conducted concerning any complaint;

28 //

1 4. Each response and the date of the response;

2 5. Any final resolution and the date of the
3 resolution; and,

4 6. In the event of a denial of a refund request, the
5 reason for the denial, or if cured, the basis for determining
6 that a complaint has been cured; and,

7 E. Copies of all sales scripts, training materials,
8 advertisements, or other marketing materials utilized by such
9 business or independent contractors; *provided* that copies of all
10 sales scripts, training materials, advertisements, or other
11 marketing materials utilized shall be retained for (3) years after
12 the last date of dissemination of any such materials.

13 X.

14 MONITORING BY DEFENDANTS

15 IT IS FURTHER ORDERED that, in connection with any business
16 where Defendant Matz is the majority owner of the business or
17 directly or indirectly manages or controls the business, and where
18 the business is engaged in the telemarketing, advertising,
19 offering for sale, sale or distribution of nondurable office
20 supplies, including photocopier toner and dry ink cartridges, or
21 assisting others engaged in the telemarketing, advertising,
22 offering for sale, sale or distribution of nondurable office
23 supplies, the defendants are hereby permanently restrained and
24 enjoined from:

25 A. Failing to take reasonable steps sufficient to monitor
26 and ensure that all employees and independent contractors engaged
27 in sales or other customer service functions comply with Sections

28 //

1 I and II of this Stipulated Order. Such steps shall include at a
2 minimum, the following:

3 1. Reviewing all sales scripts, customer service
4 scripts, and other materials used by employees or independent
5 contractors to solicit sales or conduct customer service
6 functions;

7 2. Listening to the oral representations made by
8 persons engaged in sales or other customer service functions;

9 3. Establishing a procedure for receiving and
10 responding to consumer complaints; and,

11 4. Ascertaining the number and nature of consumer
12 complaints regarding transactions in which each employee or
13 independent contractor is involved; *provided that this*
14 *Section does not authorize or require the defendant to take*
15 *any steps that violate any federal, state, or local laws;*

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

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

24 **XI.**

25 **COMPLIANCE REPORTING BY DEFENDANTS**

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

28 //

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

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

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

14 3. Any proposed change in the structure of any
15 business entity owned or controlled by any defendant, such as
16 creation, incorporation, dissolution, assignment, sale,
17 merger, creation or dissolution of subsidiaries, proposed
18 filing of a bankruptcy petition, or change in the corporate
19 name or address, or any other change that could affect
20 compliance obligations arising out of this Stipulated Order,
21 thirty (30) days prior to the effective date of any proposed
22 change; *provided, however,* that, with respect to any proposed
23 change in the business about which defendant learns less than
24 thirty (30) days prior to the date such action is to take
25 place, defendant shall notify the Commission as soon as is
26 practicable after learning of such proposed change;

27 B. One hundred eighty (180) days after the date of entry of
28 this Stipulated Order, each defendant shall provide a written

1 report to the Commission, sworn to under penalty of perjury,
2 setting forth in detail the manner and form in which that
3 defendant has complied and is complying with this Stipulated
4 Order. This report shall include but not be limited to:

5 1. Defendant Matz's current residence address and
6 telephone number;

7 2. Defendant Matz's current employment, business
8 addresses and telephone numbers, a description of the
9 business activities of each such employer, and
10 defendant's titles and responsibilities for each
11 employer;

12 3. A copy of each acknowledgment of receipt of this
13 Stipulated Order obtained by defendant pursuant to Section
14 VIII; and

15 4. A statement describing the manner in which
16 defendant has complied and is complying with Sections I and
17 II of this Stipulated Order;

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

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

27 //

28 //

1 Director
2 Midwest Region
3 Federal Trade Commission
4 55 East Monroe, Suite 1860
5 Chicago, Illinois 60603
6 Re: FTC v. Allstate Business Distribution Center, Inc.;
7 FTC File No. X000108

8 E. For the purposes of this Section, "employment" includes
9 the performance of services as an employee, consultant, or
10 independent contractor; and "employers" include any individual or
11 entity for whom Defendant Matz performs services as an employee,
12 consultant, or independent contractor; and,

13 F. For purposes of the compliance reporting required by
14 this Section, the Commission is authorized to communicate directly
15 with Defendant Matz.

16 **XII.**

17 **COMMISSION'S AUTHORITY TO MONITOR COMPLIANCE**

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

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

28 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

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1 in whole or in part by Defendant Matz, without the necessity of
2 identification or prior notice; and,

3 C. Nothing in this Stipulated Order shall limit the
4 Commission's lawful use of compulsory process, pursuant to
5 Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49 and 57b-1, to
6 investigate whether defendants have violated any provision of this
7 Stipulated Order or Section 5 of the FTC Act, 15 U.S.C. § 45.

8 XIII.

9 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 Stipulated Order, for the purpose
12 of further determining compliance with this Stipulated Order,
13 defendants shall permit representatives of the Commission, within
14 three (3) business days of receipt of written notice from the
15 Commission:

16 A. Access during normal business hours to any office, or
17 any office located in a residence, or facility storing documents,
18 of any business where Defendant Matz is the majority owner of the
19 business or directly or indirectly manages or controls the
20 business, and where the business is engaged in the telemarketing,
21 advertising, offering for sale, sale or distribution of nondurable
22 office supplies, or assisting others engaged in the telemarketing,
23 advertising, offering for sale, sale or distribution of nondurable
24 office supplies. In providing such access, defendants shall
25 permit representatives of the Commission to inspect and copy all
26 documents relevant to any matter contained in this Stipulated
27 Order; and shall permit Commission representatives to remove
28 documents relevant to any matter contained in this Stipulated

1 Order for a period not to exceed ten (10) business days so that
2 the documents may be inspected, 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 or
7 otherwise, of any business to which Subsection (A) of this Section
8 applies, concerning matters relating to compliance with the terms
9 of this Stipulated Order. The persons interviewed may have
10 counsel present. *Provided that*, upon application of the
11 Commission and for good cause shown, the Court may enter an *ex*
12 *parte* order granting immediate access to defendants' business
13 premises for the purposes of inspecting and copying all documents
14 relevant to any matter contained in this Stipulated Order.

15 **XIV.**

16 **RETENTION OF JURISDICTION**

17 **IT IS FURTHER ORDERED** that this Court shall retain
18 jurisdiction of this matter for the purpose of enabling the
19 parties to apply to the Court at any time for such further orders
20 and directives as may be necessary or appropriate for the
21 interpretation or modification of this Order, for the enforcement
22 of compliance therewith, or for the punishment of violations
23 thereof.

24 **XV.**

25 **INDEPENDENCE OF OBLIGATIONS**

26 **IT IS FURTHER ORDERED** that the expiration of any requirements
27 imposed by this Order shall not affect any other obligation
28 arising under this Order.


XVI.


ENTRY BY CLERK

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


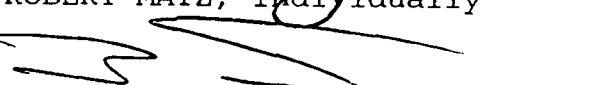
FOR THE PLAINTIFF:

FOR THE DEFENDANTS:


 THERESA M. MCGREW
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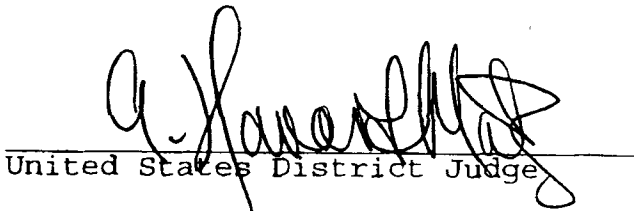

 ROBERT MATZ, President
 Allstate Business Distribution
 Center, Inc.

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 ROBERT MATZ, Individually

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IT IS SO ORDERED.

Dated: June 20, 2001


 United States District Judge

Presented By:


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