

DEC 13 2007

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

JAMES W. HATTEN, CLERK
By: *[Signature]* Deputy Clerk

	)	Civil Action No. 06-CV-1692
FEDERAL TRADE COMMISSION,)	
	)	[PROPOSED]
Plaintiff,	)	STIPULATED JUDGMENT
	)	AND ORDER FOR
v.	)	PERMANENT
	)	INJUNCTION AS TO
Prophet 3H, Inc., et al.,	)	DEFENDANT
	)	JEFFREY W. MCLAIN
Defendants	)	AND CORPORATE
	)	DEFENDANTS

This matter comes before the Court on a stipulation of Plaintiff Federal Trade Commission ("Commission" or "FTC") and Defendants.

On July 18, 2006, the FTC filed a Complaint for a Permanent Injunction and Other Relief (Doc. 1), including rescission of contracts, restitution to consumers, and disgorgement pursuant to Sections 13(b) and 19(a) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b(a), and applied *ex parte* for a Temporary Restraining Order pursuant to Rule 65 of the Federal Rules of Civil Procedure (Doc. 2). The Commission charged that Defendants, together with other named defendants Victor McLain and Alexander McLain, engaged in deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45(a), and the Commission's Rule entitled Disclosure Requirements and Prohibitions Concerning Franchise and Business Opportunity Ventures (the

“Franchise Rule”), 16 C.F.R. Part 436, in the marketing and sale of a business opportunity to become an affiliate in a healthcare network and a provider of healthcare services. On July 18, 2006 - the same day the Complaint was filed - the Court issued a Temporary Restraining Order (“TRO”) (Doc. 7) with an asset freeze, appointment of a Receiver, and other ancillary equitable relief. On August 2, 2006, upon stipulation of the parties, the Court entered an Extended TRO (Doc. 21). In addition to continuing the relief in the TRO, the Extended TRO prohibited Defendants from making misrepresentations regarding the sale of herbal tea products. On September 13, 2006, upon stipulation of the parties, the Court entered a Preliminary Injunction continuing the relief contained in the Extended TRO (Doc. 24). The Commission has filed an Amended Complaint concurrently with this proposed Stipulated Judgment.

The Commission and Defendants hereby stipulate to the entry of, and request the Court to enter, this Stipulated Judgment and Order for Permanent Injunction (“Final Order”) to resolve all matters of dispute between them in this action.

IT IS THEREFORE STIPULATED, AGREED, AND ORDERED as follows:

1. This Court has jurisdiction of the subject matter of this case and jurisdiction over the Defendants.

2. Venue in this District is proper under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b) and (c).

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

4. The Complaint and Amended Complaint state a claim upon which relief might be granted against Defendants under Sections 5(a), 13(b), and 19 of the FTC Act, 15 U.S.C. §§ 45(a), 52, 53(b), and 57b, and the Franchise Rule, 16 C.F.R. Part 436.

5. Defendants have entered into this Final Order freely and without coercion. Defendants further acknowledge that they have read the provisions of this Final Order and are prepared to abide by them.

6. The Plaintiff and Defendants have agreed that the entry of this Final Order resolves all matters of dispute between them arising from the Complaint and Amended Complaint in this action, up to the date of entry of this Final Order.

7. Defendants waive all rights to seek appellate review or otherwise challenge or contest the validity of this Final Order. Defendants further waive and releases any claim they may have against the Commission, its employees, representatives, or agents.

8. Defendants agree that this Final Order does not entitle Defendants to seek or to obtain attorneys' fees as a prevailing party under the Equal Access to

Justice Act, 28 U.S.C. § 2412, as amended by Pub. L. 104-121, 110 Stat. 847, 863-864 (1996), and Defendants further waive any rights to attorneys' fees that may arise under said provision of law.

9. This Final Order is in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law.

10. Entry of this Final Order is in the public interest.

11. This Final Order is for settlement purposes only, and does not constitute an admission by Defendants that the law has been violated as alleged in the Complaint and Amended Complaint, or that the facts as alleged in the Complaint and Amended Complaint, other than jurisdictional facts, are true.

However, for the purposes of bankruptcy proceedings, this Final Order is governed by Section V.F.

DEFINITIONS

1. "Advertising" and "promotion" mean any written or verbal statement, illustration or depiction designed to effect a sale or create interest in the purchasing of goods or services, whether it appears in a brochure, newspaper, magazine, pamphlet, leaflet, circular, mailer, book insert, free standing insert, letter, catalogue, poster, chart, billboard, public transit card, point of purchase display, packaging, package insert, label, film, slide, radio, television or cable television, audio program transmitted over a telephone system, program-length commercial

(“infomercial”), the Internet, email, press release, video news release, or in any other medium;

2. “Assets” means any legal or equitable interest in, right to, or claim to, any real and personal property, including, but not limited to, chattel, goods, instruments, equipment, fixtures, general intangibles, inventory, checks, notes, leaseholds, effects, contracts, mail or other deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables, funds, and cash, wherever located, whether in the United States or abroad;

3. “Business Opportunity Rule” means the FTC Trade Regulation Rule titled “Disclosure Requirements and Prohibitions Concerning Business Opportunities” codified at 16 C.F.R. Part 437, or as it may be amended;

4. “Business venture” means any written or oral business arrangement, however denominated, regardless of whether covered by the Franchise Rule or Business Opportunity Rule, which consists of the payment of any consideration for:

- A. the right or means to offer, sell, or distribute goods or services (regardless of whether identified by a trademark, service mark, trade name, advertising, or other commercial symbol); and
- B. more than nominal assistance to any person or entity in connection with or incident to the establishment, maintenance, or operation of a new business or the entry by an existing business into a new line or type of business;

5. “Competent and reliable scientific evidence” means tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results;

6. “Corporate Defendants” means: Prophet 3H, Inc.; Prophet 3H, LLC; Georgia Home Health Care License and Certification Institute, Inc.; Healthcare State License and Certification Institute, Inc.; M7 Holdings, LLC; and any affiliates, fictitious names, d/b/a’s, subsidiaries, successors, or assigns of the aforementioned entities;

7. “Document” is synonymous in meaning and equal in scope to the usage of the term in Fed. R. Civ. P. 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;

8. "Endorsement" means as defined in 16 C.F.R. § 255.0(b);

9. "Food" and "drug" shall mean "food" and "drug" as defined in Section 15 of the FTC Act, 15 U.S.C. § 55;

10. "Franchise Rule" means the FTC Trade Regulation Rule titled "Disclosure Requirements and Prohibitions Concerning Franchising" codified at 16 C.F.R. Part 436, or as it may be amended;

11. "Healthcare business venture" shall mean any business venture involving the sale or provision of goods or services for which a health benefit is claimed, or whose profits directly or indirectly rely upon the provision of health-related goods or services. Health-related goods or services include, but are not limited to, drugs, dietary supplements, and the provision and management of home health care services, nursing home care services, assisted living services, nurse staffing services, medical billing services, medical record management services, health care consulting services, health care client solicitation services, and services reimbursable through Federal or state Medicaid programs;

12. "Individual Defendant" and "Defendant" mean Jeffrey Wayne McLain;
13. "Named Defendants" means Jeffrey W. McLain; Victor McLain; Alexander McLain; Prophet 3H, Inc.; Prophet 3H, LLC; Georgia Home Health Care License and Certification Institute, Inc.; Healthcare State License and Certification Institute, Inc.; M7 Holdings, LLC; and any affiliates, fictitious names, d/b/a's, subsidiaries, successors, or assigns of the aforementioned entities;
14. "Receiver" shall mean Kevin O'Halloran and Newbridge Management, LLC, the Receiver appointed by the Court in this matter over Receivership Defendants;
15. "Receivership Defendants" shall mean the Corporate Defendants; and
16. "Receivership Estate" shall mean all monies and property of any kind, real or personal, owned, controlled by, or owed to the Receiver by virtue of any and all court orders in this subject suit, *FTC v. Prophet 3H, et al.*

ORDER

I. PROHIBITION AGAINST VIOLATION OF SECTION 5 OF THE FEDERAL TRADE COMMISSION ACT

IT IS THEREFORE ORDERED that, in connection with the offering for sale or selling of any business venture or healthcare business venture, Defendants,

and their agents, employees, officers, corporations, successors, assigns, and all persons or entities in active concert or participation with them who receive actual notice of this Order, by personal service or otherwise, are hereby permanently restrained and enjoined from making any material misrepresentation or assisting others in making any material misrepresentation, either expressly or by implication, to any prospective purchaser of a business venture or healthcare business venture, including, but not limited to, the following:

A. That the Defendants' healthcare business ventures do not violate federal or state laws regarding:

1. The filing of false or misleading information;
2. The use of a non-profit entity under Section 501(c)(3) of the Internal Revenue Service tax code;
3. The offering of inducements to Medicaid beneficiaries to influence their selection of a particular provider;
4. The giving or acceptance of remuneration by healthcare providers in return for the referral of a person for whom the provider, by supplying services, will receive Medicaid reimbursement;
5. The use of identity information without the authorization of the subject of the information; or

6. The filing of false statements in relation to healthcare matters;

B. That consumers who purchase a business venture will earn substantial income; or

C. That consumers who purchase a business venture will receive significant assistance in the operation of their business, including, but not limited to:

1. Legal and technical assistance, including mentoring, with the formation, development, and operation of purchasers' business ventures; or

2. Assistance obtaining clients, accounts, or locations for their business ventures.

II. REPRESENTATIONS CONCERNING FOODS, DRUGS, OR DIETARY SUPPLEMENTS

IT IS FURTHER ORDERED that Defendants, and their agents, employees, officers, corporations, successors, assigns, and all persons or entities in active concert or participation with them who receive actual notice of this Order, by personal service or otherwise, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any food, drug, or dietary supplement, including herbal teas, are hereby permanently restrained and enjoined from making any representation, in any manner, expressly or by

implication, including through the use of trade names or endorsements, about the absolute or comparative health benefits, or efficacy of such product, including any representation that such product prevents, treats, or cures any disease or condition, including, but not limited to, arthritis, high blood pressure, diabetes, stroke, glaucoma, cataracts, kidney problems, bladder problems, cancer, AIDS, heart disease or other cardiovascular problems, poor circulation or other vascular problems, infections, lupus, obesity, menopause, or impotency, unless the claim is true, non-misleading, and, at the time it is made, Defendants possess and rely upon competent and reliable scientific evidence that substantiates the representation.

III. FDA APPROVED CLAIMS

IT IS FURTHER ORDERED that nothing in this Order shall prohibit Defendants from making any representation:

- A. For any drug that is permitted in labeling for such drug under any tentative final or final standard promulgated by the Food and Drug Administration, or under any new drug application approved by the Food and Drug Administration; and
- B. For any product that is specifically permitted in labeling for such product by regulations promulgated by the Food and Drug Administration pursuant to the National Labeling and Education Act of 1990.

IV. PROHIBITION AGAINST VIOLATION OF THE FRANCHISE RULE AND BUSINESS OPPORTUNITY RULE

IT IS FURTHER ORDERED that Defendants, and their agents, employees, officers, corporations, successors, assigns, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from violating or assisting others to violate any provisions of the Franchise Rule or Business Opportunity Rule by, including, but not limited to:

- A. Failing to provide a prospective franchisee or business opportunity purchaser with a complete, accurate, and up-to-date disclosure document as prescribed by the Franchise Rule or Business Opportunity Rule;
- B. Failing to provide each prospective franchisee or business opportunity purchaser with complete and accurate documentation for any earnings or financial performance representations, as required by the Franchise Rule or Business Opportunity Rule;
- C. Failing to have a reasonable basis for any earnings or financial performance representation at the time such representation is made, as required by the Franchise Rule or Business Opportunity Rule; or
- D. Failing to disclose in a clear and conspicuous manner, in immediate conjunction with any earnings or financial performance representation,

that material which constitutes a reasonable basis for the earnings or financial performance representation is available to a prospective franchisee or business opportunity purchaser, as required by the Franchise Rule or Business Opportunity Rule.

V. MONETARY JUDGMENT

IT IS FURTHER ORDERED that:

A. Judgment in the amount of twenty-six million, six hundred and forty-five thousand, four hundred and seventy-nine dollars (\$26,645,479.00) is entered against Defendants, jointly and severally with the other Named Defendants in this matter, *provided, however*, that all of this amount shall be suspended.

B. The Defendants relinquish all right and control over all assets in the possession of the Receiver and all such assets that the Receiver may obtain pursuant to any powers granted to the Receiver by Order of this Court.

C. The Commission's agreement to this Final Order is expressly premised upon the financial condition of the Individual Defendant as represented in his sworn deposition of September 12, 2006, his sworn Declaration, dated August 28, 2007, his financial statement, dated July 15, 2007, all information supplied by him or his attorney to the Receiver and FTC, and all findings of the Receiver with respect to the frozen assets of the Defendants (collectively, "Asset Information"). The Commission has expressly relied on the Asset Information in negotiating and consenting to this Final Order. If, upon motion by the Commission, this Court finds that the Defendant, in executing his financial statement, providing financial information to the Receiver or the FTC, or testifying

at his deposition, has (i) materially misrepresented the value of any asset that should have been disclosed in the statement that the Individual Defendant executed; (ii) materially misrepresented his financial condition by failing to disclose any asset that should have been disclosed in the statement that the Individual Defendant executed; or (iii) made any other material misrepresentation or omission in the Individual Defendant's financial statement, information provided to the Receiver or the FTC, or testimony at his deposition, the Court shall enter the full suspended judgment set forth in Subparagraph "A," above, against the Individual Defendant, and said judgment shall be immediately due and payable.

D. In accordance with 31 U.S.C. § 7701, the Individual Defendant is hereby required, unless he has done so already, to furnish to the Commission his taxpayer identifying numbers (social security numbers or employer identification numbers) which shall be used for purposes of collecting and reporting on any delinquent amount arising out of Individual Defendant's relationship with the government.

E. The Individual Defendant is further required, unless he has done so already, to provide the Commission with clear, legible and full-size photocopies of all valid driver's licenses he possesses, which will be used for reporting and compliance purposes.

F. The Defendants agree that the facts as alleged in the Complaint and Amended Complaint filed in this action shall be taken as true solely for the purpose of a nondischargeability complaint in any bankruptcy proceeding.

G. 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 any other proceedings the Commission may initiate to enforce this Order.

VI. COMMISSION'S USE OF MONETARY JUDGMENT

IT IS FURTHER ORDERED that all funds paid to the Commission or its agents pursuant to Court Order in this litigation shall be deposited into a fund administered by the Commission or its agent to be used for equitable relief, including, but not limited to, consumer redress and any attendant expenses for the administration of any redress fund. In the event that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the Complaint and Amended Complaint. Any funds not used for such equitable relief shall be deposited to the United States Treasury as disgorgement. Defendants shall have no right to challenge the Commission's choice of remedies under this Section.

VII. LIFTING OF THE ASSET FREEZE

IT IS FURTHER ORDERED that:

A. The freeze of the Individual Defendant's assets set forth in the Preliminary Injunction Order, entered by this Court on September 13, 2006, shall be lifted with respect to the Individual Defendant.

B. The freeze of the assets of the Receivership Defendants shall remain in effect until such time as the Receiver liquidates all assets of Receivership Defendants and winds up all activities and operations of the Receivership Defendants, pursuant to Section XVIII herein, and receives payment of all Court-

approved fees and expenses of the Receiver, and the Receiver is discharged by the Court.

VIII. ACKNOWLEDGMENT OF RECEIPT OF ORDER

IT IS FURTHER ORDERED that within five (5) business days of receipt of this Order as entered by the Court, the Individual Defendant shall submit to the Commission a truthful sworn statement that shall acknowledge receipt of this Order.

IX. DISTRIBUTION OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that for a period of five (5) years from the date of entry of this Order, the Defendants shall deliver copies of the Order as directed below:

- A. The Corporate Defendants must deliver a copy of this Order to all of their principals, officers, directors, and managers. The Corporate Defendants must also deliver copies of this Order to all of their employees, agents, and representatives who engage in conduct related to the subject matter of the Order. For current personnel, delivery shall be within (5) days of service of this Order upon the Corporate Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities.
- B. For any business that the Individual Defendant controls, directly or indirectly, or in which the Individual Defendant has a majority ownership interest, the Individual Defendant must deliver a copy of this Order to all principals, officers, directors, and managers of that

business. The Individual Defendant must also deliver copies of this Order to all employees, agents, and representatives of that business who engage in conduct related to the provisions of Sections "I" through "IV" of this Order involving the marketing of business ventures or foods, drugs, or dietary supplements. For current personnel, delivery shall be within (5) days of service of this Order upon the Individual Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities.

- C. For any business where the Individual Defendant is not a principal, officer, director, manager, or owner or holder of a majority ownership interest but otherwise engages in conduct related to the provisions of Sections "I" through "IV" of this Order, the Individual Defendant must deliver a copy of this Order to all principals and managers of such business before engaging in such conduct.
- D. The Defendants must secure a signed and dated statement acknowledging receipt of the Order, within thirty days of delivery, from all persons receiving a copy of the Order pursuant to this Part.

X. COMPLIANCE REPORTING BY DEFENDANTS

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

- A. For a period of five (5) years from the date of entry of this Order,
 - 1. The Individual Defendant shall notify the Commission of the following:

- a. Any changes in residence, mailing addresses, and telephone numbers of the Individual Defendant, within ten (10) days of the date of such change;
- b. Any changes in employment status (including self-employment) of the Individual Defendant, and any change in the ownership of the Individual Defendant in any business entity, within ten (10) days of the date of such change. Such notice shall include the name and address of each business that the Individual Defendant is affiliated with, employed by, creates or forms, or performs services for; a statement of the nature of the business; and a statement of the Individual Defendant's duties and responsibilities in connection with the business or employment; and
- c. Any changes in the Individual Defendant's name or use of any aliases or fictitious names; and

2. The Defendants shall notify the Commission of any changes in corporate structure of the Corporate Defendants or of any business entity that engages in any acts or practices related to the provisions of Sections "I" through "TV" of this Order involving the marketing of business ventures or foods, drugs, or dietary supplements that the Defendants directly or indirectly control, or in which Defendants have an ownership interest (other than a minority ownership interest in a publicly traded entity that has filed a registration statement with the Securities and Exchange Commission), including, but not limited to, a dissolution, assignment, sale, merger, or other

action that would result in the emergence of a successor entity; the creation or dissolution of a subsidiary, parent, or affiliate; the filing of a bankruptcy petition; or a change in the corporate name or address, at least thirty (30) days prior to such change, *provided* that, with respect to any proposed change in the corporation about which the Individual Defendant learns less than thirty (30) days prior to the date such action is to take place, Individual Defendant shall notify the Commission as soon as is practicable after obtaining such knowledge;

B. One hundred eighty days after the date of entry of this Order, the Defendants each shall provide a written report to the FTC, sworn to under penalty of perjury, setting forth in detail the manner and form in which they have complied and are complying with this Order. This report shall include, but not be limited to:

1. The then-current residence address, mailing addresses, and telephone numbers of the Individual Defendant;
2. The then-current employment and business addresses and telephone numbers of the Individual Defendant, a description of the business activities of each such employer or business, and the title and responsibilities of the Individual Defendant, for each such employer or business;
3. A copy of each acknowledgment of receipt of this Order, obtained pursuant to Section IX.C of the Order; and
4. Any other changes required to be reported under subparagraph A of this Section.

C. For the purposes of this Order, the Defendants shall, unless otherwise directed by a representative of the Commission, identify all written notifications to

the FTC as provided in reference to FTC v. Prophet 3H, Inc., et al., United States District Court for the Northern District of Georgia, Case No. CV 06-1692, and mail them to:

Associate Director
Division of Enforcement
Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580

D. For the purposes of the compliance reporting and monitoring required by this Order, the Commission is authorized to communicate directly with the Defendants.

XI. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring and investigating compliance with any provision of this Order,

A. Within ten (10) days of receipt of written notice from a representative of the Commission, the Defendants each shall submit additional written reports, sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and/or provide entry during normal business hours to any business location in such Defendants' possession or direct or indirect control to inspect the business operation;

B. In addition, the Commission is authorized to monitor compliance with this Order by all other lawful means, including, but not limited to, the following:

1. obtaining discovery from any person, without further leave of court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45;

2. posing as consumers and suppliers to: Defendants, Defendants' 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. Defendants shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to any conduct subject to this Order. The person interviewed may have counsel present.

Provided, however, that nothing in this 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 obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

XII. RECORD-KEEPING PROVISIONS

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry of this Order, in connection with any business covered by the provisions of this Order that the Defendants directly or indirectly manage (other than as a manager of a single retail unit, wholesale unit, or warehouse owned and operated by a publicly traded entity that has filed a registration statement with the Securities and Exchange Commission), control or have a majority ownership interest in, Defendants and their agents, employees, officers, corporations, successors, and assigns, and those persons in active concert or participation with them who receive actual notice of this Order by personal service, facsimile or

otherwise, are hereby restrained and enjoined from failing to create and retain the following records:

A. Accounting records that reflect the cost of goods or services sold, revenues generated, and the disbursement of such revenues;

B. Personnel 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;

C. Customer files containing the names, addresses, phone numbers, dollar amounts paid, quantity of items or services purchased, and description of items or services purchased, to the extent such information is obtained in the ordinary course of business;

D. Copies of any complaints and refund requests (whether received directly, indirectly or through any third party) and any responses to those complaints or requests;

E. Copies of any sales scripts, training materials, advertisements, or other marketing materials, including e-mail and Internet websites or web pages, regarding any good, service, company or web site, which are disseminated by Defendants to any person; and

F. All records and documents necessary to demonstrate fully their compliance with each provision of this Order, including, but not limited to, copies of acknowledgments of receipt of this Order, required by Section IX.C of this Order, and all reports submitted to the FTC pursuant to Section X of this Order.

XIII. PROHIBITIONS INVOLVING CONSUMER LISTS

IT IS FURTHER ORDERED that the Defendants, and their officers, agents, servants, employees, and attorneys, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service, facsimile, or otherwise, are hereby permanently restrained and enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, credit card number, bank account number, e-mail address, or other identifying information of any person who paid any money to any Defendant, at any time prior to July 18, 2006, in connection with the advertising, promotion, marketing, offering for sale, or sale of any good or service; provided, however, that the Defendants may disclose such identifying information to a law enforcement agency, or as required by any law, regulation or court order.

XIV. COOPERATION WITH RECEIVER

IT IS FURTHER ORDERED, that Defendants shall cooperate fully with the Receiver in: (A) pursuing any and all claims by the receivership against third parties; (B) assisting the Receiver in defending any and all actions or claims brought against the receivership by third parties; and (C) executing any documents necessary to transfer assets or ownership interests to the Receiver pursuant to the terms of this Order.

XV. RETENTION OF JURISDICTION

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

XVI. RECEIVERSHIP PROVISIONS

IT IS FURTHER ORDERED, that Kevin O'Halloran and Newbridge Management are appointed as Permanent Receiver, with the full power of an equity receiver, for the Receivership Defendants, and of all the funds, properties, premises, accounts and other assets directly or indirectly owned, beneficially or otherwise, by the Receivership Defendants, with directions and authority to accomplish the following:

- A. Maintain full control of the Receivership Defendants;
- B. Maintain custody, control, and possession of all the funds, property, premises, accounts, mail and other assets of, or in the possession or under the control of, the Receivership Defendants, wherever situated, the income and profits therefrom, and all sums of money now or hereafter due or owing to the Receivership Defendants, with full power to: collect, receive and take possession of all goods, chattels, rights, credits, monies, effects, lands, leases, books and records, work papers, and records of accounts, including computer-maintained information, contracts, financial records, monies on hand in banks and other financial institutions, and other papers and documents of Receivership Defendants and purchasers of the Receivership Defendants whose interests are now held by or

under the direction, possession, custody, or control of Receivership Defendants;

C. Continue performing all acts necessary to preserve the value of those assets, in order to prevent any irreparable loss, damage or injury to purchasers of the Receivership Defendants, and all acts incidental thereto, including the suspension of operations;

D. Enter into agreements in connection with administration of the receivership, including, but not limited to: (1) the retention and employment of investigators, attorneys or accountants of the Receiver's choice, including, without limitation, members and employees of the Receiver's firm, to assist, advise, and represent the Receiver; (2) the movement and storage of any equipment, furniture, records, files, or other physical property of Receivership Defendants; and (3) the retention of auctioneers or other professionals to assist in the liquidation of Receivership Defendants' assets;

E. Institute, prosecute, compromise, adjust, intervene in or become party to such actions or proceedings in state, federal, or foreign courts that the Receiver deems necessary and advisable to preserve or increase the value of the receivership estate, or that the Receiver deems necessary and advisable to carry out the Receiver's mandate under this Order, and likewise to defend, compromise, or adjust or otherwise dispose of any or all actions or proceedings instituted against

the Receiver or Receivership Defendants that the Receiver deems necessary and advisable to preserve the assets of Receivership Defendants or that the Receiver deems necessary and advisable to carry out the Receiver's mandate under this Order;

F. Liquidate assets of Receivership Defendants and all assets transferred to the Receiver in accordance with the terms of this Order or any prior or subsequent order of this Court; and to transfer receivership property to storage facilities, cancel leases, and reject and enter contracts; and

G. To execute all bills of sale and deeds to personal and real property belonging to or coming into possession of Receivership Defendants. The Receiver shall maintain with the Clerk of this Court a bond in the sum of \$10,000 with sureties to be approved by the Court, conditioned that the Receiver will well and truly perform the duties of the office and abide by and perform all acts the Court directs.

XVII. POWERS GRANTED TO RECEIVER UNDER PRIOR ORDER OF THE COURT

IT IS FURTHER ORDERED that, to the extent they are not inconsistent with this Order, all powers granted to the Receiver pursuant to the Court's Preliminary Injunction Order of September 13, 2006 shall remain in full force and effect.

XVIII. WINDING UP OF RECEIVERSHIP DEFENDANTS

IT IS FURTHER ORDERED that the Receiver shall liquidate all assets of the Receivership Defendants and wind up all activities and operations of the Receivership Defendants and their subsidiary and affiliated entities. Upon approval of the Court, and the Court's issuance of an Order for Final Payment, the Receiver shall transfer to the Commission or its agent all funds in the Receivership estate, less fees and expenses as allowed by the Court, toward satisfaction of the judgment entered herein.

XIX. COMPENSATION OF RECEIVER

IT IS FURTHER ORDERED that the Receiver and those he employs are entitled to reasonable compensation for the performance of duties pursuant to this Order and for the costs of actual out-of-pocket expenses incurred by them, from the Receivership Defendants' assets held by or in the possession or control of, or which may be received by, the Receiver or Receivership Defendants.

XX. TERMINATION OF RECEIVERSHIP

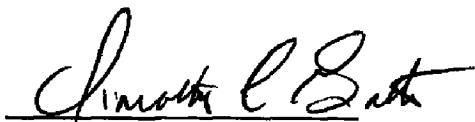
IT IS FURTHER ORDERED, that the Receiver shall, if he has not already done so, file his final report and request for fees and expenses within 180 days of the execution of this Order, unless good cause is shown to extend the Receivership beyond 180 days. The Receiver's final report and request for fees and expenses shall be served upon the parties through counsel. Plaintiff may object within 15

days of receipt, but Defendants shall have no right to object. Upon submission of the Receiver's final report or upon this Court's Order for Final Payment, whichever is later, and subject to the terms set forth in Section XVIII herein, the Receivership shall terminate.

XXI. COMPLETE SETTLEMENT

The parties hereby consent to entry of the foregoing Order which shall constitute a final judgment and order in this matter. The parties further stipulate and agree that the entry of the foregoing order shall constitute a full, complete, and final settlement of this action.


SO ORDERED, this 13th day of Dec. 2007.



Timothy C. Batten, Sr.
United States District Judge
United States District Court for
The Northern District of Georgia

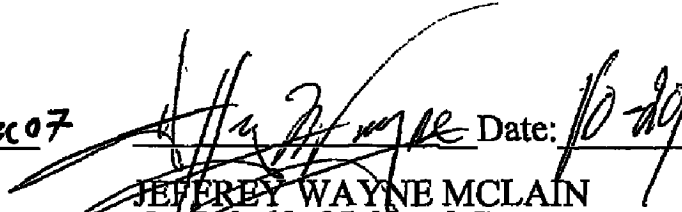
**STIPULATED BY:
FOR THE PLAINTIFF:**

William Blumenthal
General Counsel


 Date: 12/20/07

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FOR THE DEFENDANTS:

 Date: 10/29/07
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On Behalf of Self and Corporate Defendants

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