

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

FEDERAL TRADE COMMISSION,	:	
	:	
Plaintiff,	:	Civil Action No. 2:01-cv-04854-BMS
	:	
v.	:	
	:	
JOHN ZUCCARINI, individually and	:	
d/b/a Cupcake Party <i>et al.</i>,	:	
	:	
Defendant.	:	

(Proposed)
EX PARTE TEMPORARY RESTRAINING ORDER
WITH ANCILLARY EQUITABLE RELIEF

On April 9, 2002, this Court entered its Judgment and Permanent Injunction (“Permanent Injunction”) in this case. Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), has moved for an *ex parte* Temporary Restraining Order with Ancillary Equitable Relief and an Order to Show Cause why Defendant John Zuccarini should not be held in civil contempt for violating that Permanent Injunction.

The Court has considered Plaintiff’s Motion for Temporary Restraining Order with Ancillary Equitable Relief, and the declarations, exhibits, and memorandum of law submitted in support thereof, and finds as follows:

1. This Court has jurisdiction over the subject matter of this case, and there is good cause to believe that it will have jurisdiction over all parties hereto.

2. There is good cause to believe that Defendant Zuccarini has actual notice of the Permanent Injunction.

3. There is good cause to believe Defendant Zuccarini continues to be bound by the Court's Permanent Injunction.

4. There is good cause to believe that Defendant Zuccarini has violated, and continues to violate, the Permanent Injunction. The evidence submitted in the declarations and exhibits accompanying Plaintiff's Memoranda of Points and Authorities in support of its *ex parte* Motion for Temporary Restraining Order and its Motion for Order to Show Cause, shows that there is good cause to believe that Defendant Zuccarini has engaged in prohibited activity by redirecting consumers on the Internet; representing that his web pages and domain names are endorsed by, affiliated or associated with third parties or entities, when in fact they are not; and participating in affiliate marketing programs in violation of Section I of the Permanent Injunction. In addition, the evidence shows that there is good cause to believe Defendant Zuccarini has failed to notify the Commission within 30 days of registering or re-registering each domain name with any Domain Name Registrar and failed to notify the Commission of his current residential mailing address and employment status in violation of Section V of the Permanent Injunction.

5. The FTC has not provided notice to Defendant Zuccarini of its Motions due to the likelihood that advance notice of this action will lead to the dissipation of assets and the destruction of evidence. The FTC's request for *ex parte* relief is premised on Defendant Zuccarini's continuing order violations, foreign bank accounts, and his history of tampering with evidence, evading service, and failing to abide by court orders. Based on the foregoing, there is good cause to issue this order on an *ex parte* basis.

6. The Court has considered the FTC's substantial likelihood of success on the merits of the contempt action and weighed the equities, and finds that a temporary restraining order providing for an asset freeze, the preservation of business records, financial disclosures, expedited discovery, and other equitable relief is in the public interest.

7. FED. R. CIV. P. 65(c) does not require security of the United States or an officer or agency thereof.

DEFINITIONS

For the purposes of this Temporary Restraining Order, the following definitions apply:

A. "Affiliate Marketing Program" means a revenue sharing arrangement between online merchants and "affiliates," – online content providers who market and/or advertise goods or services for merchants through, *inter alia*, the use of banners, ads and text links posted on web sites or web pages. Compensation is paid to the affiliate by the merchant on performance of certain measures, typically in the form of sales, clicks, registrations or a hybrid model. The affiliate is paid a commission by the merchant when a visitor takes a specific action such as filling out a form or making a purchase.

B. "Asset[s]" means any legal or equitable interest in, right to, or claim to, any and all real and personal property of Defendant, or held for the benefit of Defendant, including but not limited to chattel, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds, inventory, checks, notes, accounts, credits, receivables, shares of stock, contracts, and all cash and currency, or other assets, or any interest therein, wherever located.

C. "Defendant" means John Zuccarini, individually and d/b/a Cupcake Party, Cupcake-Party, Cupcake Parties, Cupcake-Parties, Cupcake City, Cupcake Patrol,

Cupcake-Patrol, Cupcake First-Patrol, Cupcake Show, Cupcake-Show, Cupcake Shows, Cupcake-Shows, Cupcake Parade, Cupcake-Parade, Cupcakes, Cupcake Confidential, Cupcake-Movies, Cupcake Real Video, The Cupcake Incident, The Cupcake Secret, Cupcake Message, Cupcake Messenger, The Country Walk, JZ Design, and RaveClub Berlin, whether acting directly or through any entity, corporation, subsidiary, division, or other device, unless specified otherwise, as well as his successors and assigns.

D. "Financial Institution" means any bank, savings and loan institution, credit union, or any financial depository of any kind, including but not limited to any brokerage house, trustee, broker-dealer, escrow agent, title company, commodity trading company, precious metal dealer, commercial check cashing facility, or any entity or person that holds, controls, or maintains custody of any account or asset of any Defendant.

E. "Plaintiff" means the Federal Trade Commission, FTC, or Commission.

I. ASSET FREEZE

IT IS ORDERED that Defendant Zuccarini is hereby temporarily restrained and enjoined from directly or indirectly:

A. Transferring, liquidating, converting, encumbering, pledging, loaning, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, granting a lien or security interest in, or otherwise disposing of any Assets, wherever located, including outside the United States, that are: (1) owned or controlled, directly or indirectly, by Defendant, in whole or in part, or held, in whole or in part for the benefit of Defendant; (2) in the actual or constructive possession of Defendant; or (3) owned, controlled by, or in the actual or constructive possession

of any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by, or under common control with Defendant, including but not limited to, any Assets held by, for, or under the name of Defendant at any bank, savings and loan institution, or Defendant bank, or with any broker-dealer, escrow agent, title company, commodity trading company, precious metal dealer, or other financial institution or depository of any kind;

B. Opening or causing to be opened any safe deposit boxes titled in the name of Defendant, or subject to access by Defendant;

C. Incurring charges or cash advances on any credit card, debit card, or checking card issued in the name, singly or jointly, of Defendant;

~~D. Obtaining a personal or secured loan;~~

E. Incurring liens or encumbrances on real property, personal property or other Assets in the name, singly or jointly of Defendant; and

F. Cashing any checks, obtaining any cash advances, or using any funds obtained in connection with participating in any Affiliate Marketing Programs.

The Assets affected by this Paragraph shall include: (a) all Assets of Defendant as of the time this Order is entered; and (b) those Assets obtained after entry of this Order that are derived from any conduct that violates the Permanent Injunction.

II.
**RETENTION OF ASSETS BY FINANCIAL INSTITUTIONS
AND OTHER THIRD PARTIES**

IT IS FURTHER ORDERED that any financial or brokerage institution, escrow agent, title company, commodity trading company, trust, entity, or person that holds, controls or maintains custody of any account or asset owned or controlled by Defendant, or has held, controlled or maintained any account or asset of, or on behalf of, Defendant at any time since the entry of this Court's Temporary Restraining Order shall:

A. Hold and retain within its control and prohibit Defendant from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling, gifting, or otherwise disposing of any of the Assets, funds, or other property held by or on behalf of Defendant in any account maintained in the name of or for the benefit of Defendant, in whole or in part, except as directed by further order of the Court; or

B. Deny Defendant access to any safe deposit box titled in the name of Defendant, individually or jointly, or subject to access by Defendant, whether directly or indirectly;

C. Provide counsel for Plaintiff¹ within three (3) business days after being served with a copy of this Order, a certified statement setting forth:

1. the identification number of each such account or asset (1) titled in the name, individually or jointly, of Defendant; (2) held on behalf of, or for the benefit of, Defendant; (3) owned or controlled by Defendant; or (4) otherwise subject to access by Defendant, directly or indirectly;

¹ Counsel for Plaintiff means FTC attorneys Carolyn L. Hann and Laureen Kapin, and any other FTC attorneys who appear in this action after the entry of this Order. Counsel for Plaintiff's mailing address for all materials mailed pursuant to this Order is 601 New Jersey Ave., N.W., Suite NJ-2122, Washington, DC 20001. Counsel for Plaintiff's fax number is (202) 326-2558.

2. the balance of each such account, or a description of the nature and value of such asset as of the close of business on the day on which this Order is served, and, if the account or other asset has been closed or removed, the date closed or removed, the total funds removed in order to close the account, and the name of the person or entity to whom such account or other asset was remitted;
3. the identification of any safe deposit box that is either titled in the name of Defendant, or is otherwise subject to access by Defendant; and
4. if an account, safe deposit box, or other asset has been closed or removed, the date closed or removed, the balance on such date, and the manner in which such account or asset was closed or removed.

D. Provide counsel for Plaintiff, within three (3) business days after being served with a request, copies of all documents pertaining to such account or asset, including but not limited to originals or copies of account applications, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs; and

E. Cooperate with all reasonable requests of counsel for the Plaintiff relating to this Order's implementation.

III.
FINANCIAL REPORTS AND ACCOUNTING

IT IS FURTHER ORDERED that Defendant shall prepare and serve on counsel for Plaintiff:

A. Within two (2) business days after service of this Order, completed financial statements fully disclosing his own finances and those of all corporations, partnerships, trusts or other entities that he now owns, controls, or is associated with in any capacity on the forms attached to this Order as **Attachment A**, accurate as of the date of service of this Order upon Defendant; and

B. Within two (2) business days after service of this Order, copies of signed and completed federal and state income tax forms, including all schedules and attachments for the four (4) most recent filing years.

C. Within five (5) business days after service of this Order, for all revenues obtained in connection with Defendant's participation in any Affiliate Marketing Program, provide the FTC with a completed statement, verified under oath reporting:

1. All revenues collected and obtained by Defendant, directly or through any other corporation, partnership, limited liability corporation, or other entity since April 9, 2002, the date of entry of the Permanent Injunction;
2. The full names, addresses, and telephone numbers, of all individuals and entities from whom Defendant receives revenues in connection with his participation in any Affiliate Marketing Program;
3. All costs and expenses incurred by Defendant, directly or indirectly; and

4. All net profits collected and obtained by Defendant, directly or indirectly.

Defendant also shall provide copies of such other financial statements as Plaintiff may, from time to time, request in order to monitor Defendant's compliance with the provisions of this Order.

**IV.
FOREIGN ASSET REPATRIATION**

IT IS FURTHER ORDERED that, within three (3) business days following the service of this Order, Defendant shall:

A. Provide counsel for Plaintiff a full accounting of all funds and Assets outside of the territory of the United States which are held either: (1) by Defendant; (2) for Defendant's benefit; or (3) under Defendant's direct or indirect control, individually or jointly, as required by the forms included in **Attachment A**;

B. Transfer to the territory of the United States all such funds and Assets in foreign countries; and

C. Hold and retain all repatriated funds and Assets, and prevent any disposition, transfer, or dissipation whatsoever of any such Assets or funds, except as required by this Order.

Defendant shall provide access to records and documents held by Financial Institutions outside the territorial United States, by signing the Consent to Release of Financial Records attached to this Order as **Attachment B**, immediately upon service of this Order upon them, or within such time as permitted by counsel for Plaintiff in writing.

V.
NON-INTERFERENCE WITH REPATRIATION

IT IS FURTHER ORDERED that Defendant, and those persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, are hereby temporarily restrained and enjoined from taking any action, directly or indirectly, which may result in the encumbrance or dissipation of foreign Assets, or in the hindrance of the repatriation required by the preceding Paragraph IV of this Order, including but not limited to:

A. Sending any statement, letter, fax, e-mail or wire transmission, telephoning or engaging in any other act, directly or indirectly, that results in a determination by a foreign trustee or other entity that a “duress” event has occurred under the terms of a foreign trust agreement, until such time that all Assets have been fully repatriated pursuant to Paragraph IV of this Order; and

B. Notifying any trustee, protector or other agent of any foreign trust or other related entities of either the existence of this Order, or of the fact that repatriation is required pursuant to a court order, until such time that all Assets have been fully repatriated pursuant to Paragraph IV of this Order.

VI.
PRESERVATION OF RECORDS

IT IS FURTHER ORDERED that Defendant, and those persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, are hereby temporarily restrained and enjoined from destroying, erasing, mutilating, concealing, altering, transferring, writing over, or otherwise disposing of, in any manner, directly or

indirectly, any documents or records of any kind that relate to the business practices or business or personal finances of Defendant, including but not limited to, computers, computerized files and storage media on which information has been saved (including, but not limited to, thumb drives, floppy disks, hard drives, CD-ROMS, zip disks, punch cards, magnetic tape, backup tapes, and computer chips) and any and all equipment needed to read any such material, contracts, accounting data, correspondence (including, but not limited to, electronic correspondence), advertisements (including, but not limited to, advertisements placed on the World Wide Web or the Internet), FTP logs, Server Access Logs, World Wide Web pages, handwritten notes, written or printed records, telephone logs, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, copies of federal, state or local business or personal income or property tax returns, and other documents or records of any kind that relate to the business practices or business finances of Defendant.

**VII.
MAINTENANCE OF CURRENT BUSINESS RECORDS**

IT IS FURTHER ORDERED that, in connection with the advertising, promotion, offering for sale, sale, or provision of any goods or services on the Internet, the World Wide Web, and/or any web page or web site, the Defendant is hereby restrained and enjoined from:

- A. Failing to create and maintain documents that, in reasonable detail, accurately, fairly, and completely reflect the Defendant's incomes, disbursements, transactions, and use of money; and
- B. Creating, operating, or exercising any control over any business entity, including

any partnership, limited partnership, joint venture, sole proprietorship or corporation, without first providing Plaintiff with a written statement disclosing: (1) the name of the business entity; (2) the address and telephone number of the business entity; (3) the names of the business entity's officers, directors, principals, managers and employees; and (4) a detailed description of the business entity's intended activities.

VIII.
COMMISSION ACCESS TO BUSINESS RECORDS

IT IS FURTHER ORDERED that Defendant shall, within three (3) days service of this

Order:

- A. Produce to the Commission for inspection, inventory and/or copying, at a location designated by the Commission, all materials related or referring, directly or indirectly to Defendant's domain names, web pages and web sites, Defendant's contracts or agreements with any third parties relating to his domain names, web pages and web sites, and any materials, information, products or data related thereto, including but not limited to computers, computerized files and storage media on which information has been saved (including, but not limited to, thumb drives, floppy disks, hard drives, CD-ROMS, zip disks, punch cards, magnetic tape, backup tapes, and computer chips) and any and all equipment needed to read any such material, contracts, accounting data, correspondence (including, but not limited to, electronic correspondence), advertisements (including, but not limited

to, advertisements placed on the World Wide Web or the Internet), FTP logs, Server Access Logs, World Wide Web pages, handwritten notes, written or printed records, telephone logs, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, copies of federal, state or local business or personal income or property tax returns, and other documents or records of any kind that relate to the business practices or business finances of Defendant;

- B. Produce to the Commission for inspection, inventory and/or copying, at a location designated by the Commission, within 50 miles or less from Defendant's residence, all computers, laptops and data in whatever form, used by the Defendant, in whole or in part, relating to the Defendant's business practices; and
- C. In order to prevent the destruction of computer data, upon service of this Order upon Defendant, any such computers shall be powered down (turned off) in the normal course for the operating systems used on such computers and shall not be powered up or used again until produced for copying and inspection, along with any codes needed for access.

The Commission shall return the materials so removed, or produced by the Defendant, within three (3) business days of completing inventorying and copying.

IX.
EXPEDITED DISCOVERY

IT IS FURTHER ORDERED that the FTC is granted leave to conduct certain expedited discovery, and that, commencing with the time and date of this Order, in lieu of the time periods, notice provisions, and other requirements of Rules 26, 30, 34, and 45 of the Federal Rules of Civil Procedure, expedited discovery as to parties and non-parties shall proceed as follows:

A. The FTC may, upon two (2) business days notice, take the deposition of any person or entity, whether or not a party, for the purpose of discovering: (1) the nature, location, status and extent of Assets of Defendant; (2) the nature and location of documents reflecting the business transactions of Defendant; and (3) compliance with the Permanent Injunction and this Order. Deposition transcripts that have not been signed by the witness may be used at the preliminary injunction hearing in this matter. *Provided that*, notwithstanding Fed. R. Civ. P. 30(a)(2), this Subparagraph shall not preclude any future depositions by the FTC. *Provided further*, that any deposition taken pursuant to this sub-paragraph shall be in addition to, and not subject to, the presumptive limits on depositions set forth in Fed. R. Civ. P. 30(a)(2)(A). Service of discovery upon a party, taken pursuant to this Section, shall be sufficient if made by facsimile or by overnight delivery.

B. The FTC may, upon five (5) business days notice, including through the use of a Rule 45 Subpoena, demand the production of documents from any person or entity, whether or not a party, relating to (1) the nature, status, extent, or location of Assets of Defendant or his affiliates or subsidiaries; (2) the nature and location of documents reflecting the business transactions of Defendant or his affiliates or subsidiaries; and (3) compliance with the Court's

Permanent Injunction and this Order. *Provided* that two (2) days notice shall be deemed sufficient for the production of any such documents that are maintained or stored only as electronic data.

C. The FTC is granted leave to subpoena documents immediately from any Financial Institution, account custodian, or other entity or person that holds, controls, or maintains custody of any account or asset of Defendant, or has held, controlled or maintained custody of any account or asset of Defendant concerning the nature, location, status, and extent of Defendant's Assets, and compliance with this Order, and such financial institution, account custodian or other entity shall respond to such subpoena within five business days after service. For purposes of this subsection, the FTC may serve any such subpoena by facsimile or overnight courier.

**X.
CONSUMER CREDIT REPORTS**

IT IS FURTHER ORDERED that pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(1), any consumer reporting agency may furnish a consumer report concerning Defendant to counsel for Plaintiff.

**XI.
SERVICE OF ORDER**

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission or email, by employees or agents of the FTC, upon any Financial Institution or other entity or person that may have possession, custody, or control of any documents or Assets of Defendant, or that may otherwise be subject to any provision of this

Order. Service upon any branch or office of any Financial Institution shall effect service upon the entire Financial Institution.

**XII.
ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANT**

IT IS FURTHER ORDERED that Defendant, within three (3) business days of receipt of this Order, must submit to counsel for Plaintiff a truthful sworn statement acknowledging receipt of this Order.

**XIII.
CORRESPONDENCE WITH AND NOTICE
TO THE COMMISSION**

IT IS FURTHER ORDERED that, for purposes of this Temporary Restraining Order, all correspondence and pleadings to the Commission shall be addressed to:

Carolyn Hann, Esquire
Federal Trade Commission
601 New Jersey Ave, N.W., Room 2122
Washington, DC 20001
(202) 326-2745 (voice)
(202) 326-2558 (facsimile)

**XIV.
SERVICE OF PLEADINGS; EVIDENCE, WITNESS LISTS**

IT IS FURTHER ORDERED that:

A. Defendant shall file any answering affidavits, pleadings, or legal memoranda with the Court and serve the same on counsel for the FTC no later than three (3) business days prior to the

preliminary injunction hearing in this matter. The FTC may file responsive or supplemental pleadings, materials, affidavits, or memoranda with the Court and serve the same on Defendant no later than one business day prior to the preliminary injunction hearing in this matter.

Provided that service shall be performed by personal or overnight delivery or by facsimile, or electronic mail, and documents shall be delivered so that they shall be received by the other parties no later than 5 p.m. on the appropriate dates listed in this Subparagraph.

B. The question of whether this Court should enter a preliminary injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure enjoining Defendant during the pendency of this action shall be resolved on the pleadings, declarations, exhibits, and memoranda filed by and oral argument of the parties. Live testimony shall be heard only on further order of this Court on motion filed with the Court and served on counsel for the other parties at least three (3) business days prior to the preliminary injunction hearing in this matter. Such motion shall set forth the name, address, and telephone number of each proposed witness, a detailed summary or affidavit revealing the substance of each proposed witness' expected testimony, and an explanation of why the taking of live testimony would be helpful to this Court. Any papers opposing a timely motion to present live testimony or to present live testimony in response to live testimony to be presented by another party shall be filed with this Court and served on the other parties at least two (2) business days prior to the preliminary injunction hearing in this matter. *Provided* that service shall be performed by personal or overnight delivery or by facsimile, and documents shall be delivered so that they shall be received by the other parties no later than 5 p.m. on the appropriate dates listed in this Subparagraph.

**XV.
DURATION OF TEMPORARY RESTRAINING ORDER**

IT IS FURTHER ORDERED that the Temporary Restraining Order granted herein shall expire on JAN 9th, 2007 at 8:30 A.m., unless within such time, the Order, for good cause shown, is extended for an additional period not to exceed ten (10) days, or unless it is further extended pursuant to Federal Rule of Civil Procedure 65.

**XVI.
ORDER TO SHOW CAUSE REGARDING PRELIMINARY INJUNCTION**

IT IS FURTHER ORDERED that the Defendant shall appear before this Court on the 8th day of JAN, 2007, at 8:30 A.m. at the United States Courthouse of the United States District Court for the Eastern District of Pennsylvania, 601 Market Street, Room 5C, Philadelphia, PA 19106, to show cause, if any there be, why this Court should not enter a Preliminary Injunction, pending a final ruling on Plaintiff's Motion for a Civil Contempt Order against Defendant.

**XVII.
RETENTION OF JURISDICTION**

IT IS FURTHER ORDERED the Court shall continue to retain jurisdiction of this matter for all purposes.

IT IS SO ORDERED, this 21 day of Dec, 2006, at 10:50 A.m.



BERLE M. SCHILLER
United States District Judge
United States District Court for the
Eastern District of Pennsylvania

ATTACHMENT A

FEDERAL TRADE COMMISSION

FINANCIAL STATEMENT OF INDIVIDUAL DEFENDANT

Instructions:

1. Complete all items. Enter "None" or "N/A" ("Not Applicable") where appropriate. If you cannot fully answer a question, explain why.
2. "Dependents" include your live-in companion, dependent children, or any other person, whom you or your spouse (or your children's other parent) claimed or could have claimed as a dependent for tax purposes at any time during the past five years.
3. "Assets" and "Liabilities" include ALL assets and liabilities, located within the United States or elsewhere, whether held individually or jointly.
4. Attach continuation pages as needed. On the financial statement, state next to the Item number that the Item is being continued. On the continuation page(s), identify the Item number(s) being continued.
5. Type or print legibly.
6. Initial each page in the space provided in the lower right corner.
7. Sign and date the completed financial statement on the last page.

Penalty for False Information:

Federal law provides that any person may be imprisoned for not more than five years, fined, or both, if such person:

- (1) "in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry" (18 U.S.C. § 1001);
- (2) "in any . . . statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true" (18 U.S.C. § 1621); or
- (3) "in any (. . . statement under penalty of perjury as permitted under section 1746 of title 28, United States Code) in any proceeding before or ancillary to any court or grand jury of the United States knowingly makes any false material declaration or makes or uses any other information . . . knowing the same to contain any false material declaration" (18 U.S.C. § 1623).

For a felony conviction under the provisions cited above, federal law provides that the fine may be not more than the greater of (i) \$250,000 for an individual or \$500,000 for a corporation, or (ii) if the felony results in pecuniary gain to any person or pecuniary loss to any person other than the defendant, the greater of twice the gross gain or twice the gross loss. 18 U.S.C. § 3571.

BACKGROUND INFORMATION

Item 1. Information About You

Your Full Name _____ Social Security No. _____

Place of Birth _____ Date of Birth _____ Drivers License No. _____

Current Address _____ From (Date) _____

Rent or Own? _____ Telephone No. _____ Facsimile No. _____

E-Mail Address _____ Internet Home Page _____

Previous Addresses for past five years:

Address _____ Rent or Own? _____ From/Until _____

Address _____ Rent or Own? _____ From/Until _____

Identify any other name(s) and/or social security number(s) you have used, and the time period(s) during which they were used _____

Item 2. Information About Your Spouse or Live-In Companion

Spouse/Companion's Name _____ Social Security No. _____

Place of Birth _____ Date of Birth _____

Identify any other name(s) and/or social security number(s) your spouse/companion has used, and the time period(s) during which they were used _____

Address (if different from yours) _____

From (Date) _____ Rent or Own? _____ Telephone No. _____

Employer's Name and Address _____

Job Title _____ Years in Present Job _____ Annual Gross Salary/Wages \$ _____

Item 3. Information About Your Previous Spouse

Previous Spouse's Name & Address _____

_____ Social Security No. _____ Date of Birth _____

Item 4. Contact Information

Name & Address of Nearest Living Relative or Friend _____

Telephone No. _____

Item 5. Information About Dependents Who Live With You

▶Name _____ Date of Birth _____
Relationship _____ Social Security No. _____
▶Name _____ Date of Birth _____
Relationship _____ Social Security No. _____
▶Name _____ Date of Birth _____
Relationship _____ Social Security No. _____

Item 6. Information About Dependents Who Do Not Live With You

▶Name & Address _____
Date of Birth _____ Relationship _____ Social Security No. _____
▶Name Address _____
Date of Birth _____ Relationship _____ Social Security No. _____
▶Name & Address _____
Date of Birth _____ Relationship _____ Social Security No. _____

Item 7. Employment Information

Provide the following information for this year-to-date and for each of the previous five full years, for each company of which you were a director, officer, employee, agent, contractor, participant or consultant at any time during that period. "Income" includes, but is not limited to, any salary, commissions, draws, consulting fees, loans, loan payments, dividends, royalties or other benefits for which you did not pay (e.g., health insurance premiums, automobile lease or loan payments) received by you or anyone else on your behalf.

▶Company Name & Address _____
Dates Employed: From (Month/Year) _____ To (Month/Year) _____
Positions Held with Beginning and Ending Dates _____

Item 7. continued

Income Received: This year-to-date: \$ _____ : \$ _____
20____ : \$ _____ : \$ _____
_____ : \$ _____ : \$ _____

►Company Name & Address _____

Dates Employed: From (Month/Year) _____ To (Month/Year) _____

Positions Held with Beginning and Ending Dates _____

Income Received: This year-to-date: \$ _____ : \$ _____
20____ : \$ _____ : \$ _____
_____ : \$ _____ : \$ _____

►Company Name & Address _____

Dates Employed: From (Month/Year) _____ To (Month/Year) _____

Positions Held with Beginning and Ending Dates _____

Income Received: This year-to-date: \$ _____ : \$ _____
20____ : \$ _____ : \$ _____
_____ : \$ _____ : \$ _____

Item 8. Pending Lawsuits Filed by You or Your Spouse

List all pending lawsuits that have been filed by you or your spouse in court or before an administrative agency. (List lawsuits that resulted in final judgments or settlements in Items 16 and 25).

Opposing Party's Name & Address _____

Court's Name & Address _____

Docket No. _____ Relief Requested _____ Nature of Lawsuit _____

_____ Status _____

Item 9. Pending Lawsuits Filed Against You or Your Spouse

List all pending lawsuits that have been filed against you or your spouse in court or before an administrative agency. (List

lawsuits that resulted in final judgments or settlements in Items 16 and 25).

Opposing Party's Name & Address _____

Court's Name & Address _____

Docket No. _____ Relief Requested _____ Nature of Lawsuit _____

_____ Status _____

Item 10. Safe Deposit Boxes

List all safe deposit boxes, located within the United States or elsewhere, held by you, your spouse, or any of your dependents, or held by others for the benefit of you, your spouse, or any of your dependents. *On a separate page, describe the contents of each box.*

<u>Owner's Name</u>	<u>Name & Address of Depository Institution</u>	<u>Box No.</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

Item 11. Business Interests

List all businesses for which you, your spouse, or your dependents are an officer or director.

- ▶Business' Name & Address _____
Business Format (e.g., corporation) _____ Description of Business _____
_____ Position(s) Held, and By Whom _____
- ▶Business' Name & Address _____
Business Format (e.g., corporation) _____ Description of Business _____
_____ Position(s) Held, and By Whom _____
- ▶Business' Name & Address _____
Business Format (e.g., corporation) _____ Description of Business _____
_____ Position(s) Held, and By Whom _____

FINANCIAL INFORMATION: ASSETS AND LIABILITIES

REMINDER: "Assets" and "Liabilities" include ALL assets and liabilities, located within the United States or elsewhere, whether held individually or jointly.

Item 12. Cash, Bank, and Money Market Accounts

List cash and all bank and money market accounts, including but not limited to, checking accounts, savings accounts, and certificates of deposit, held by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents. The term "cash" includes currency and uncashed checks.

Cash on Hand \$ _____ Cash Held For Your Benefit \$ _____

<u>Name on Account</u>	<u>Name & Address of Financial Institution</u>	<u>Account No.</u>	<u>Current Balance</u>
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____
_____	_____	_____	\$ _____

Item 13. U.S. Government Securities

List all U.S. Government securities, including but not limited to, savings bonds, treasury bills, and treasury notes, held by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents.

<u>Name on Account</u>	<u>Type of Obligation</u>	<u>Security Amount</u>	<u>Maturity Date</u>
_____	_____	\$ _____	_____
_____	_____	\$ _____	_____
_____	_____	\$ _____	_____

Item 14. Publicly Traded Securities and Loans Secured by Them

List all publicly traded securities, including but not limited to, stocks, stock options, registered and bearer bonds, state and municipal bonds, and mutual funds, held by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents.

► Issuer _____ Type of Security _____ No. of Units Owned _____

Name on Security _____ Current Fair Market Value \$ _____ Loan(s) Against Security \$ _____

Broker House, Address _____ Broker Account No. _____

► Issuer _____ Type of Security _____ No. of Units Owned _____

Name on Security _____ Current Fair Market Value \$ _____ Loan(s) Against Security \$ _____

Broker House, Address _____ Broker Account No. _____

Item 15. Other Business Interests

List all other business interests, including but not limited to, non-public corporations, subchapter-S corporations, limited liability corporations ("LLCs"), general or limited partnership interests, joint ventures, sole proprietorships, and oil and mineral leases, held by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents.

► Business Format _____ Business' Name & Address _____

_____ Ownership % _____

Owner (e.g., self, spouse) _____ Current Fair Market Value \$ _____

► Business Format _____ Business' Name & Address _____

_____ Ownership % _____

Owner (e.g., self, spouse) _____ Current Fair Market Value \$ _____

Item 16. Monetary Judgments or Settlements Owed to You, Your Spouse, or Your Dependents

List all monetary judgments or settlements owed to you, your spouse, or your dependents.

► Opposing Party's Name & Address _____

Court's Name & Address _____ Docket No. _____

Nature of Lawsuit _____ Date of Judgment _____ Amount \$ _____

► Opposing Party's Name & Address _____

Court's Name & Address _____ Docket No. _____

Nature of Lawsuit _____ Date of Judgment _____ Amount \$ _____

Item 17. Other Amounts Owed to You, Your Spouse, or Your Dependents

List all other amounts owed to you, your spouse, or your dependents.

Debtor's Name, Address, & Telephone No. _____

Original Amount Owed \$ _____ Current Amount Owed \$ _____ Monthly Payment \$ _____

Item 18. Life Insurance Policies

List all life insurance policies held by you, your spouse, or your dependents.

►Insurance Company's Name, Address, & Telephone No. _____

Insured _____ Beneficiary _____ Face Value \$ _____

Policy No. _____ Loans Against Policy \$ _____ Surrender Value \$ _____

►Insurance Company's Name, Address, & Telephone No. _____

Insured _____ Beneficiary _____ Face Value \$ _____

Policy No. _____ Loans Against Policy \$ _____ Surrender Value \$ _____

Item 19. Deferred Income Arrangements

List all deferred income arrangements, including but not limited to, deferred annuities, pensions plans, profit-sharing plans, 401(k) plans, IRAs, Keoghs, and other retirement accounts, held by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents.

►Name on Account _____ Type of Plan _____ Date Established _____

Trustee or Administrator's Name, Address & Telephone No. _____

Account No. _____ Surrender Value \$ _____

►Name on Account _____ Type of Plan _____ Date Established _____

Trustee or Administrator's Name, Address & Telephone No. _____

Account No. _____ Surrender Value \$ _____

Item 20. Personal Property

List all personal property, by category, whether held for personal use or for investment, including but not limited to,

furniture and household goods of value, computer equipment, electronics, coins, stamps, artwork, gemstones, jewelry, bullion, other collectibles, copyrights, patents, and other intellectual property, held by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents.

<u>Property Category</u> (e.g., artwork, jewelry)	<u>Name of Owner</u>	<u>Property Location</u>	<u>Acquisition Cost</u>	<u>Current Value</u>
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____
_____	_____	_____	\$ _____	\$ _____

Item 21. Cars, Trucks, Motorcycles, Boats, Airplanes, and Other Vehicles

List all cars, trucks, motorcycles, boats, airplanes, and other vehicles owned or operated by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents.

► Vehicle Type _____ Make _____ Model _____ Year _____

Registered Owner's Name _____ Registration State & No. _____

Address of Vehicle's Location _____

Purchase Price \$ _____ Current Value \$ _____ Account/Loan No. _____

Lender's Name and Address _____

Original Loan Amount \$ _____ Current Loan Balance \$ _____ Monthly Payment \$ _____

► Vehicle Type _____ Make _____ Model _____ Year _____

Registered Owner's Name _____ Registration State & No. _____

Address of Vehicle's Location _____

Purchase Price \$ _____ Current Value \$ _____ Account/Loan No. _____

Lender's Name and Address _____

Original Loan Amount \$ _____ Current Loan Balance \$ _____ Monthly Payment \$ _____

Item 21. Continued

► Vehicle Type _____ Make _____ Model _____ Year _____

Registered Owner's Name _____ Registration State & No. _____

Address of Vehicle's Location _____

Purchase Price \$ _____ Current Value \$ _____ Account/Loan No. _____

Lender's Name and Address _____

Original Loan Amount \$ _____ Current Loan Balance \$ _____ Monthly Payment \$ _____

Item 22. Real Property

List all real estate held by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents.

►Type of Property _____ Property's Location _____

Name(s) on Title and Ownership Percentages _____

Acquisition Date _____ Purchase Price \$ _____ Current Value \$ _____

Basis of Valuation _____ Loan or Account No. _____

Lender's Name and Address _____

Current Balance On First Mortgage \$ _____ Monthly Payment \$ _____

Other Loan(s) (describe) _____ Current Balance \$ _____

Monthly Payment \$ _____ Rental Unit? _____ Monthly Rent Received \$ _____

►Type of Property _____ Property's Location _____

Name(s) on Title and Ownership Percentages _____

Acquisition Date _____ Purchase Price \$ _____ Current Value \$ _____

Basis of Valuation _____ Loan or Account No. _____

Lender's Name and Address _____

Current Balance On First Mortgage \$ _____ Monthly Payment \$ _____

Other Loan(s) (describe) _____ Current Balance \$ _____

Monthly Payment \$ _____ Rental Unit? _____ Monthly Rent Received \$ _____

Item 23. Credit Cards

List each credit card held by you, your spouse, or your dependents. Also list any other credit cards that you, your spouse, or your dependents use.

<u>Name of Credit Card (e.g., Visa, MasterCard, Department Store)</u>	<u>Account No.</u>	<u>Name(s) on Account</u>	<u>Current Balance</u>	<u>Minimum Monthly Payment</u>
			\$ _____	\$ _____
			\$ _____	\$ _____
			\$ _____	\$ _____
			\$ _____	\$ _____
			\$ _____	\$ _____
			\$ _____	\$ _____

Item 24. Taxes Payable

List all taxes, such as income taxes or real estate taxes, owed by you, your spouse, or your dependants.

<u>Type of Tax</u>	<u>Amount Owed</u>	<u>Year Incurred</u>
	\$ _____	
	\$ _____	
	\$ _____	
	\$ _____	

Item 25. Judgments or Settlements Owed

List all judgments or settlements owed by you, your spouse, or your dependants.

Opposing Party's Name & Address _____

Court's Name & Address _____ Docket No. _____

Nature of Lawsuit _____ Date _____ Amount \$ _____

Item 26. Other Loans and Liabilities

List all other loans or liabilities in your, your spouse's, or your dependents' names.

►Name & Address of Lender/Creditor _____

Nature of Liability _____ Name(s) on Liability _____

Date of Liability _____ Amount Borrowed \$ _____ Current Balance \$ _____

Payment Amount \$ _____ Frequency of Payment _____

►Name & Address of Lender/Creditor _____

Nature of Liability _____ Name(s) on Liability _____

Date of Liability _____ Amount Borrowed \$ _____ Current Balance \$ _____

Payment Amount \$ _____ Frequency of Payment _____

OTHER FINANCIAL INFORMATION

Item 27. Tax Returns

List all federal tax returns that were filed during the last three years by or on behalf of you, your spouse, or your dependents. *Provide a copy of each signed tax return that was filed during the last three years.*

<u>Tax Year</u>	<u>Name(s) on Return</u>	<u>Refund Expected</u>
_____	_____	\$ _____
_____	_____	\$ _____
_____	_____	\$ _____

Item 28. Applications for Credit

List all applications for bank loans or other extensions of credit that you, your spouse, or your dependents have submitted within the last two years. *Provide a copy of each application, including all attachments.*

<u>Name(s) on Application</u>	<u>Name & Address of Lender</u>
_____	_____
_____	_____
_____	_____

Item 29. Trusts and Escrows

List all funds or other assets that are being held in trust or escrow by any person or entity for you, your spouse, or your dependents. Also list all funds or other assets that are being held in trust or escrow by you, your spouse, or your dependents, for any person or entity. *Provide copies of all executed trust documents.*

<u>Trustee or Escrow Agent's Name & Address</u>	<u>Date Established</u>	<u>Grantor</u>	<u>Beneficiaries</u>	<u>Present Market Value of Assets</u>
				\$
				\$
				\$
				\$
				\$

Item 30. Transfers of Assets

List each person to whom you have transferred, in the aggregate, more than \$2,500 in funds or other assets during the previous three years by loan, gift, sale, or other transfer. For each such person, state the total amount transferred during that period.

<u>Transferee's Name, Address, & Relationship</u>	<u>Property Transferred</u>	<u>Aggregate Value</u>	<u>Transfer Date</u>	<u>Type of Transfer (e.g., Loan, Gift)</u>
		\$		
		\$		
		\$		
		\$		
		\$		
		\$		
		\$		

SUMMARY FINANCIAL SCHEDULES

Item 31. Combined Balance Sheet for You, Your Spouse, and Your Dependents

<u>ASSETS</u>		<u>LIABILITIES</u>	
Cash on Hand (Item 12)	\$ _____	Credit Cards (Item 23)	\$ _____
Cash in Financial Institutions (Item 12)	\$ _____	Motor Vehicles - Liens (Item 21)	\$ _____
U.S. Government Securities (Item 13)	\$ _____	Real Property - Encumbrances (Item 22)	\$ _____
Publicly Traded Securities (Item 14)	\$ _____	Loans Against Publicly Traded Securities (Item 14)	\$ _____
Other Business Interests (Item 15)	\$ _____	Taxes Payable (Item 24)	\$ _____
Judgments or Settlements Owed to You (Item 16)	\$ _____	Judgments or Settlements Owed (Item 25)	\$ _____
Other Amounts Owed to You (Item 17)	\$ _____	Other Loans and Liabilities (Item 26)	\$ _____
Surrender Value of Life Insurance (Item 18)	\$ _____	<u>Other Liabilities (Itemize)</u>	
Deferred Income Arrangements (Item 19)	\$ _____	_____	\$ _____
Personal Property (Item 20)	\$ _____	_____	\$ _____
Motor Vehicles (Item 21)	\$ _____	_____	\$ _____
Real Property (Item 22)	\$ _____	_____	\$ _____
<u>Other Assets (Itemize)</u>		_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
Total Assets	\$ <u>_____</u>	Total Liabilities	\$ <u>_____</u>

Item 32. Combined Average Monthly Income and Expenses for You, Your Spouse, and Your Dependents for the Last 6 Months

Provide the average monthly income and expenses for you, your spouse, and your dependents for the last 6 months. Do not include credit card payments separately; rather, include credit card expenditures in the appropriate categories.

<u>INCOME</u>		<u>EXPENSES</u>	
Salary - After Taxes	\$ _____	Mortgage Payments for Residence(s)	\$ _____
Fees, Commissions, and Royalties	\$ _____	Property Taxes for Residence(s)	\$ _____
Interest	\$ _____	Rental Property Expenses, Including Mortgage Payments, Taxes, and Insurance	\$ _____
Dividends and Capital Gains	\$ _____	Car or Other Vehicle Lease or Loan Payments	\$ _____
Gross Rental Income	\$ _____	Food Expenses	\$ _____
Profits from Sole Proprietorships	\$ _____	Clothing Expenses	\$ _____
Distributions from Partnerships, S-Corporations, and LLCs	\$ _____	Utilities	\$ _____
Distributions from Trusts and Estates	\$ _____	Medical Expenses, Including Insurance	\$ _____
Distributions from Deferred Income Arrangements	\$ _____	Other Insurance Premiums	\$ _____
Social Security Payments	\$ _____	Other Transportation Expenses	\$ _____
Alimony/Child Support Received	\$ _____	Other Household Expenses	\$ _____
Gambling Income	\$ _____	<u>Other Expenses (Itemize)</u>	
<u>Other Income (Itemize)</u>		_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
_____	\$ _____	_____	\$ _____
Total Income	\$ _____	Total Expenses	\$ _____

ATTACHMENTS

Item 33. Documents Attached to this Financial Statement

List all documents that are being submitted with this financial statement.

<u>Item No. Document Relates To</u>	<u>Description of Document</u>

I am submitting this financial statement with the understanding that it may affect action by the Federal Trade Commission or a federal court. I have used my best efforts to obtain the information requested in this statement. The responses I have provided to the items above are true and contain all the requested facts and information of which I have notice or knowledge. I have provided all requested documents in my custody, possession, or control. I know of the penalties for false statements under 18 U.S.C. § 1001, 18 U.S.C. § 1621, and 18 U.S.C. § 1623 (five years imprisonment and/or fines). I certify under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on:

(Date)

Signature

ATTACHMENT B

CONSENT TO RELEASE OF FINANCIAL RECORDS

I, _____ of the State of _____ in the United States of America, do hereby direct any bank or trust company at which I have a bank account of any kind or at which a corporation or natural person has a bank account of any kind upon which I am authorized or able to draw, and its officers, employees, and agents, to disclose all information and deliver copies of all documents of every nature in your possession or control which relate to the said bank accounts to any attorney or representative of the Federal Trade Commission, and to give evidence relating thereto, in any proceedings of *Federal Trade Commission v. John Zuccarini*, 2:01-CV-04854 BMS, before the United States District Court for the Eastern District of Pennsylvania, and this shall be irrevocable authority for so doing. This direction is intended to apply to the laws of countries other than the United States which restrict or prohibit the disclosure of bank information without the consent of the holder of the account, and shall be construed as consent with respect thereto, and the same shall apply to any of the bank accounts for which I may be a relevant principal.

Dated: _____, 2006

Signed: _____