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U.S. DISTRICT COURT
EASTERN DISTRICT OF LA
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LORETTA G. WHYTE
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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

U.S. GRANT RESOURCES, LLC,

NATIONAL GRANTS, LLC,

JOHN B. RODGERS, and

LAUREL A. RODGERS,

Defendants.

Civil Action No. 04-0596

Section N

Magistrate No. 3

**STIPULATED FINAL JUDGMENT AND ORDER FOR
PERMANENT INJUNCTION AND MONETARY RELIEF**

Plaintiff, the Federal Trade Commission ("Commission"), commenced this action by filing its complaint pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"),

**STIPULATED FINAL JUDGMENT AND ORDER FOR
PERMANENT INJUNCTION AND MONETARY RELIEF**

___ Fee _____
___ Process _____
 Dktd. TXBLS
___ CtRmDep _____
___ Doc. No. 1730

15 U.S.C. § 53(b), charging the defendants with deceptive acts and practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45.

Plaintiff, through its counsel, and defendants, through their counsel, have agreed to entry of this Final Judgment and Order by this Court in order to resolve all matters in dispute in this action. The Commission and the defendants have consented to entry of this Final Judgment and Order without trial or adjudication of any issue of law or fact herein and without the defendants admitting liability for any of the violations alleged in the complaint or for any wrongdoing whatsoever.

Being fully advised in the premises and acting upon the joint motion of the parties, the Commission and the defendants, to enter this Final Judgment and Order,

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

FINDINGS

1. This Court has jurisdiction over the subject matter of this case and all parties thereto;
2. The complaint states a claim upon which relief may be granted against the defendants under Sections 5 and 13(b) of the FTC Act, 15 U.S.C. §§ 45 and 53(b);
3. Venue in this district is proper under 28 U.S.C. § 1391(b) and 15 U.S.C. § 53(b);
4. The activities of the defendants are in or affecting commerce as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44;
5. Entry of this Final Judgment and Order is in the public interest; and

6. Defendants have waived all claims under the Equal Access to Justice Act, 28 U.S.C. § 2412, and all rights to seek judicial review or otherwise challenge the validity of this Final Judgment and Order.

DEFINITIONS

For the purpose of this Stipulated Final Judgment and Order, the following definitions shall apply:

1. “*Assets*” means any legal or equitable interest in, right to, or claim to, any real and personal property, including, but not limited to, “goods,” “instruments,” “equipment,” “fixtures,” “general intangibles,” “inventory,” “checks,” “notes” (as these terms are defined in the Uniform Commercial Code), and all chattel, leaseholds, contracts, mail or other deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables, funds, and cash, wherever located.

2. “*Document*” is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which the information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

3. “*Grant procurement goods or services*” means any goods or services which are advertised, offered for sale, or sold to consumers as a method by which consumers may obtain, receive, apply for, or learn how to obtain, receive, or apply for a grant, including, but not limited

to, information, instructions, assistance, or advice relating to obtaining, receiving, or applying for a grant.

4. “**Telemarketing**” means any business activity (which includes, but is not limited to, initiating or receiving telephone calls, managing others who initiate or receive telephone calls, operating an enterprise that initiates or receives telephone calls, owning an enterprise that initiates or receives telephone calls, or otherwise participating as an officer, director, employee or independent contractor in an enterprise that initiates or receives telephone calls) that involves attempts to induce consumers to purchase any item, good, service, partnership interest, trust interest or other beneficial interest, or to enter a contest for a prize, by means of telephone sales presentations, either exclusively or in conjunction with the use of other forms of marketing. *Provided*, that the term “telemarketing” shall not include transactions that are not completed until after a face-to-face contact between the seller or solicitor and the consumer solicited. *Provided further*, that for the purposes of Paragraph II(D), the definition of telemarketing shall be consistent with 16 C.F.R. § 310.2.

5. “**Assisting others**” means knowingly providing any of the following goods or services to another entity: (1) performing customer service functions, including, but not limited to, receiving or responding to consumer complaints; (2) formulating or providing, or arranging for the formulation or provision of, any telephone sales script or any other marketing material; (3) providing names of, or assisting in the generation of, potential customers; or (4) performing marketing services of any kind.

ORDER

I. BAN RELATING TO GRANT PROCUREMENT GOODS OR SERVICES AND TELEMARKETING

IT IS THEREFORE ORDERED that defendants U.S. Grant Resources, LLC, National Grants, LLC, John B. Rodgers, and Laurel A. Rodgers are hereby permanently restrained and enjoined from (a) holding any ownership interest, share, or stock in, (b) serving as an officer, director, trustee, or general manager of, or (c) engaging in or receiving any remuneration of any kind whatsoever from:

- (1) any business entity engaged, in whole or in part, in the advertising, promotion, offering for sale, or sale of grant procurement goods or services, or
- (2) any business entity engaged, in whole or in part, in telemarketing.

II. INJUNCTION AGAINST MISREPRESENTATIONS

A. IT IS FURTHER ORDERED that, in connection with the advertising, promotion, offering for sale, or sale of grant procurement goods or services, defendants U.S. Grant Resources, LLC, National Grants, LLC, John B. Rodgers, and Laurel A. Rodgers, and each of their successors, assigns, officers, directors, agents, servants, employees, subsidiaries, and affiliates, and those persons in active concert or participation with them who receive actual notice of this Order

by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, affiliate or other device, are hereby permanently restrained and enjoined from:

1. Misrepresenting, expressly or by implication, that consumers will obtain a cash grant using defendants' grant procurement goods or services; and
2. Failing to disclose all material conditions or restrictions of defendants' refund policy.

B. IT IS FURTHER ORDERED that, in connection with the advertising, promotion, offering for sale, or sale of grant procurement goods or services, defendants U.S. Grant Resources, LLC, National Grants, LLC, John B. Rodgers, and Laurel A. Rodgers, and each of their successors, assigns, officers, directors, agents, servants, employees, subsidiaries, and affiliates, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, affiliate or other device, are hereby permanently restrained and enjoined from misrepresenting, expressly or by implication, any fact material to a consumer's decision to purchase grant procurement goods or services.

C. IT IS FURTHER ORDERED that, with respect to the advertising, marketing, promoting, offering for sale, or sale of any good or service, defendants U.S. Grant Resources, LLC, National Grants, LLC, John B. Rodgers, and Laurel A. Rodgers, and each of their successors, assigns, officers, directors, agents, servants,

employees, subsidiaries, and affiliates, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, affiliate or other device, are hereby permanently restrained and enjoined from misrepresenting, expressly or by implication, any fact material to a consumer's decision to purchase defendants U.S. Grant Resources, LLC, National Grants, LLC, John B. Rodgers, and Laurel A. Rodgers' products or services.

D. IT IS FURTHER ORDERED that defendants U.S. Grant Resources, LLC, National Grants, LLC, John B. Rodgers, and Laurel A. Rodgers, and each of their successors, assigns, officers, directors, agents, servants, employees, subsidiaries, and affiliates, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, affiliate or other device, are hereby permanently restrained and enjoined from violating the Telemarketing Sales Rule, 16 C.F.R. Part 310.

III. INJUNCTION AGAINST PROVIDING CUSTOMER LISTS

IT IS FURTHER ORDERED that defendants U.S. Grant Resources, LLC, National Grants, LLC, John B. Rodgers, and Laurel A. Rodgers are hereby permanently restrained and enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, social security number, or other identifying information of any person who

purchased services from defendants at any time prior to the date this Final Judgment and Order is entered. *Provided*, however, that defendants may disclose such identifying information to a law enforcement agency or as required by any law, regulation, or court order.

IV. MONETARY JUDGMENT

IT IS FURTHER ORDERED that:

- A.** Judgment in the amount of FIVE MILLION FOUR HUNDRED THOUSAND DOLLARS (\$5,400,000.00) is entered against defendants U.S. Grant Resources, LLC, National Grants, LLC, John B. Rodgers, and Laurel A. Rodgers; *provided*, however, that upon the fulfillment of the payment obligations of Section IV(B) and Section IV(C) of this Final Judgment and Order by defendants, this judgment shall be suspended until further order of the Court, and *provided further* that this judgment shall be subject to the conditions set forth in Section V of this Final Judgment and Order.
- B.** Defendants U.S. Grant Resources, LLC, National Grants, LLC, John B. Rodgers, and Laurel A. Rodgers shall be jointly and severally liable for payment of equitable monetary relief, including, but not limited to, consumer redress and/or disgorgement, and for paying any attendant expenses of administration of any redress fund, in the amount of FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00).
- C.** Within ten (10) days of the entry of this Final Judgment and Order, defendants U.S. Grant Resources, LLC, National Grants, LLC, John B. Rodgers, and Laurel A. Rodgers shall turn over the entire payment of FOUR HUNDRED

THOUSAND DOLLARS (\$400,000.00) to the Commission in the form of a wire transfer or certified or cashier's check made payable to the Commission, or such agent as the Commission may direct.

- D.** Time is of the essence for the payment specified above. In the event that defendants U.S. Grant Resources, LLC, National Grants, LLC, John B. Rodgers, and Laurel A. Rodgers do not fulfill, or only partially fulfill, the payment obligations set forth in this Paragraph, defendants U.S. Grant Resources, LLC, National Grants, LLC, John B. Rodgers, and Laurel A. Rodgers shall be immediately liable for payment of FIVE MILLION FOUR HUNDRED THOUSAND DOLLARS (\$5,400,000.00), which is the entire amount of the judgment, plus interest, less any payments already made. Notwithstanding any other provision of this Final Judgment and Order, defendants U.S. Grant Resources, LLC, National Grants, LLC, John B. Rodgers, and Laurel A. Rodgers agree that, if they fail to meet the payment obligations set forth in this Paragraph, the facts as alleged in the Complaint filed in this matter shall be taken as true in any subsequent litigation filed by the Commission to enforce its rights pursuant to this Final Judgment and Order, including, but not limited to, a nondischargeability complaint in any subsequent bankruptcy proceeding.
- E.** The Commission's agreement to and the Court's approval of this Final Judgment and Order are expressly premised upon representations of defendants U.S. Grant Resources, LLC, National Grants, LLC, John B. Rodgers, and Laurel A. Rodgers that they owe federal and state income taxes, interest, and penalties for the tax

year 2003 (hereinafter referred to as the “owed taxes, interest, and penalties”).

The total of the owed taxes, interest, and penalties is at least \$198,851. In the event that the amount paid by defendants in final satisfaction of the owed taxes, interest, and penalties is less than \$198,851, defendants shall pay to the Commission the difference between \$198,851 and the amount actually paid.

Defendants shall provide to the Commission copies of all instruments used to pay such owed taxes, interest, and penalties within ten (10) days of each such payment. In the event that defendants receive any refunds of amounts paid for the owed taxes, interest, and penalties, such refunds, to the extent that they reduce total payments made by defendants to an amount below \$198,851, shall be paid to the Commission within thirty (30) days of defendants’ receipt of such refunds.

- F. All funds paid pursuant to this Final Judgment and Order 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 the defendants’ practices alleged in the Complaint. Any funds not used for such equitable relief shall be deposited to the Treasury of the United States as

disgorgement. Defendants U.S. Grant Resources, LLC, National Grants, LLC, John B. Rodgers, and Laurel A. Rodgers shall have no right to challenge the Commission's choice of remedies under this Section.

- G.** Defendants U.S. Grant Resources, LLC, National Grants, LLC, John B. Rodgers, and Laurel A. Rodgers shall have no right to contest the manner of distribution chosen by the Commission. No portion of any payments under the judgment herein shall be deemed a payment of any fine, penalty, or punitive assessment.

V. FINANCIAL STATEMENTS

- A. IT IS FURTHER ORDERED** that the Commission's agreement to and the Court's approval of this Final Judgment and Order are expressly premised upon the truthfulness, accuracy, and completeness of the financial statements and information provided to the Commission by defendants U.S. Grant Resources, LLC, National Grants, LLC, John B. Rodgers, and Laurel A. Rodgers on or about April 21, 2004, which contain material information relied upon by the Commission in negotiating and agreeing to the terms of this Final Judgment and Order.
- B. IT IS FURTHER ORDERED** that if the Commission should have evidence that the above-referenced financial statements and information failed to disclose any material asset the value of which exceeds \$1,000, materially misrepresented the value of any asset, or made any other material misrepresentation or omission, the Commission may move that the Court reopen this Final Judgment and Order for the sole purpose of allowing the Commission to modify the monetary liability of

defendants U.S. Grant Resources, LLC, National Grants, LLC, John B. Rodgers, and Laurel A. Rodgers. If the Court finds that any defendant failed to disclose any material asset, materially misrepresented the value of any asset, or made any other material misrepresentation or omission in the above-referenced financial statements and information, the Court shall reinstate the suspended judgment against such defendant, in favor of the Commission, in the amount of FIVE MILLION FOUR HUNDRED THOUSAND DOLLARS (\$5,400,000.00), which the defendants and the Commission stipulate is the amount of consumer injury caused by the defendants, as set forth in Section IV of this Final Judgment and Order. *Provided*, however, that in all other respects this Final Judgment and Order shall remain in full force and effect unless otherwise ordered by the Court. Any proceedings instituted under this Section shall be in addition to and not in lieu of any other proceedings the Commission may initiate to enforce this Final Judgment and Order. Solely for the purposes of reopening or enforcing this Section, defendants U.S. Grant Resources, LLC, National Grants, LLC, John B. Rodgers, and Laurel A. Rodgers waive any right to contest any of the allegations set forth in the Complaint filed in this matter.

VI. COMPLIANCE MONITORING

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

- A. Within ten (10) days of receipt of written notice from a representative of the Commission, defendants U.S. Grant Resources, LLC, National Grants, LLC, John

B. Rodgers, and Laurel A. Rodgers 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 Final Judgment and 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 proscribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45;
2. Posing as consumers and suppliers to defendants' employees or any other entity managed or controlled in whole or in part by defendants, without the necessity of identification or prior notice;

Provided, that nothing in this Final Judgment and 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 and 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)).

C. Defendants U.S. Grant Resources, LLC, National Grants, LLC, John B. Rodgers, and Laurel A. Rodgers 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 Final Judgment and Order. The person interviewed may have counsel present.

VII. COMPLIANCE REPORTING BY DEFENDANTS

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

A. For a period of three (3) years from the date of entry of this Final Judgment and Order:

1. Each of the defendants John B. Rodgers and Laurel A. Rodgers shall notify the Commission of the following:

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

2. Defendants U.S. Grant Resources, LLC, National Grants, LLC, John B. Rodgers, and Laurel A. Rodgers shall notify the Commission of any changes in corporate structure that may affect compliance obligations arising under this Final Judgment and Order, including, but not limited to, a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Final Judgment and Order; 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 defendants learn less than thirty (30) days prior to the date such action is to take place, defendants shall notify the Commission as soon as is practicable after obtaining such knowledge.

B. One hundred eighty (180) days after the date of entry of this Final Judgment and Order, defendants U.S. Grant Resources, LLC, National Grants, LLC, John B. Rodgers, and Laurel A. Rodgers 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 Final Judgment and Order. This report shall include, but not be limited to:

1. Any changes required to be reported pursuant to Subsection A above; and
2. A copy of each acknowledgment of receipt of this Final Judgment and Order obtained by defendants pursuant to Section IX.

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

Regional Director
Southwest Region
Federal Trade Commission
1999 Bryan Street, Suite 2150
Dallas, Texas 75201
Re: FTC v. U.S. Grant Resources, LLC, et al., Civil Action No. 04-0596.

D. For purposes of the compliance reporting required by this Section, the Commission is authorized to communicate directly with defendants U.S. Grant Resources, LLC, National Grants, LLC, John B. Rodgers, and Laurel A. Rodgers.

VIII. RECORD KEEPING PROVISIONS

IT IS FURTHER ORDERED that, for a period of six (6) years from the date of entry of this Final Judgment and Order, defendants U.S. Grant Resources, LLC, National Grants, LLC, John B. Rodgers, and Laurel A. Rodgers and each of their successors, assigns, agents, servants or employees, and those persons in active concert or participation with them who receive actual notice of this Final Judgment and Order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, affiliate, or other device, in connection with any business where any defendant is the majority owner of the business or directly or indirectly manages or controls the business, and where the business involves the advertising, promotion, offering for sale, or sale of grant procurement goods or services or telemarketing or assisting others engaged in the advertising, promotion, offering for sale, or sale of grant

procurement goods or services or telemarketing, 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. Complaints and refund requests (whether received directly, indirectly or through any third party) and any responses to those complaints or requests; and
- E. Copies of all sales scripts, training materials, advertisements, or other marketing materials.

IX. DISTRIBUTION OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that, for a period of three (3) years from the date of entry of this Order,

- A.** Each of the defendants U.S. Grant Resources, LLC and National Grants, LLC shall deliver a copy of this Order to all of their principals, officers, directors, managers, employees, agents, and representatives having responsibilities with respect to the subject matter of this Order, and shall secure from each such person a signed and dated statement acknowledging receipt of the Order. Defendants U.S. Grant Resources, LLC and National Grants, LLC shall deliver this Order to current personnel within thirty (30) days after the date of service of this Order, and to new personnel within thirty (30) days after the person assumes such position or responsibilities.
- B.** Each of the Defendants John B. Rodgers and Laurel A. Rodgers shall deliver a copy of this Order to the principals, officers, directors, managers and employees or other persons engaged in activity covered by this Order, immediately upon employing or retaining any such person for any business where such defendant is the majority owner of the business or directly or indirectly manages or controls the business, and where the business is engaged in activity covered by this Order. Defendants John B. Rodgers and Laurel A. Rodgers shall secure from each such person a signed and dated statement acknowledging receipt of the Order within thirty (30) days after the date of service of the Order or the commencement of the employment relationship.

X. ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that defendants U.S. Grant Resources, LLC, National Grants, LLC, John B. Rodgers, and Laurel A. Rodgers, within five (5) business days of receipt of this Final Judgment and Order as entered by the Court, must submit to the Commission a truthful sworn statement acknowledging receipt of this Final Judgment and Order.

XI. ATTORNEYS' FEES

IT IS FURTHER ORDERED that each party to this Final Judgment and Order hereby agrees to bear its own costs and attorneys' fees incurred in connection with this action.

XII. LIFT OF ASSET FREEZE

IT IS FURTHER ORDERED that the freeze of defendants' assets, imposed in the Preliminary Injunction entered in this proceeding, shall be lifted upon the entry of this Final Judgment and Order.

XIII. 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 Final Judgment and Order.

IT IS SO ORDERED.

Dated this 15th day of November, 2004.


KURT D. ENGELHARDT
UNITED STATES DISTRICT JUDGE

SO STIPULATED:



W. DAVID GRIGGS
Trial Attorney
Texas Bar No. 08491100

SUSAN E. ARTHUR
Attorney
Texas Bar No. 01365300

**FEDERAL TRADE COMMISSION
SOUTHWEST REGION**
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**ATTORNEYS FOR PLAINTIFF
FEDERAL TRADE COMMISSION**


U.S. GRANT RESOURCES, LLC
Defendant
NATIONAL GRANTS, LLC
Defendant
JOHN B. RODGERS
Defendant
LAUREL A. RODGERS
Defendant

Pauline F. Hardin

PAULINE F. HARDIN

Bar No. 04625500

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ATTORNEY FOR DEFENDANTS