

2. There is good cause to believe that the Defendants WebViper, LLC; Tigerhawk, LLC; Thomas J. Counts; and Patrick C. Taylor have engaged in and are likely to engage in acts and practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and that the Plaintiff is therefore likely to prevail on the merits of this action;

3. There is good cause to believe that immediate and irreparable damage to consumers will result unless Defendants are enjoined by order of this Court;

4. Weighing the equities and considering Plaintiff's likelihood of ultimate success, a preliminary injunction with other equitable relief is in the public interest; and

5. Fed. R. Civ. P. 65(c) does not require security of the United States or an officer or agency thereof.

Definitions

For the purpose of this preliminary injunction order, the following definitions shall apply:

- A. "Defendants" or "Defendant" means, collectively or individually, WebViper, LLC; Tigerhawk, LLC; Thomas J. Counts; and Patrick C. Taylor and each of their successors, assigns, officers, agents, servants, employees, subsidiaries or 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, limited liability company, corporation, subsidiary, division, or other device, unless specified otherwise;
- B. "Person" means any natural person, organization, or other legal entity, including a corporation, partnership, proprietorship, association, cooperative, government agency, or any other group or combination acting as an entity;

- C. A “website” is a set of electronic documents, usually a home page and subordinate pages, readily viewable on a personal computer by anyone with access to the Internet, standard software, and knowledge of the website's location or address;
- D. “Website service” means the creation, development, maintenance, hosting, or design of a website for any person;
- E. “Hosting” means assigning an Internet address to a set of selected electronic documents and taking the actions necessary to cause the documents to be readily viewable on a personal computer by anyone with access to the Internet, standard software, and knowledge of the website's address;
- F. “Bill” means any communication of any kind the content of which indicates on its face that the consumer has incurred an obligation to pay for products or services rendered or to be rendered in the future; and
- G. “Demand for payment” means any communication of any kind the content of which indicates that failure to pay a bill may result in additional financial obligations or further collection efforts by the creditor, including but not limited to reporting the debt to a credit agency.

CONDUCT PROHIBITIONS

I.

INJUNCTION AGAINST MISREPRESENTATIONS

IT IS THEREFORE ORDERED that, in connection with the advertising, promoting, marketing, offering or providing, or assisting others in the advertising, promoting marketing, offering or providing website services, Defendants are hereby restrained and enjoined

from making or assisting in the making of, expressly or by implication, orally or in writing, any false or misleading statement, representation or omission of material fact, including, but not limited to:

- A. Misrepresentations that consumers are obligated to pay for services that they have not expressly authorized; and/or
- B. Demanding payment from consumers if those consumers have not agreed to pay for such services.

II.

INJUNCTION AGAINST UNAUTHORIZED BILLING

IT IS THEREFORE ORDERED that, in connection with the advertising, promoting, marketing, offering or providing, or assisting others in the advertising, promoting marketing, offering or providing website services, Defendants are hereby restrained and enjoined from sending or causing to be sent any bill or demand for payment prior to receiving the consumer's express agreement to pay for the specific product or service.

III.

INJUNCTION AGAINST PROVIDING THE MEANS AND INSTRUMENTALITIES TO MISREPRESENT

IT IS FURTHER ORDERED that in connection with the advertising, promoting, marketing, offering or providing, or assisting others in the advertising, promoting, marketing, offering or providing of any website service, Defendants are hereby preliminarily enjoined from providing the means and instrumentalities to, or otherwise assisting or facilitating, any person who Defendants know or should know makes any false or misleading statement, representation,

or omission, including but not limited to:

- A. Misrepresentations that consumers are obligated to pay for services that they have not expressly authorized; and/or
- B. Demanding payment from consumers if those consumers have not agreed to pay for such services.

**IV.
PRESERVATION OF RECORDS**

IT IS FURTHER ORDERED that Defendants are hereby restrained and enjoined from destroying, erasing, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, any contracts, accounting data, correspondence, advertisements, computer tapes, discs, or other computerized records, books, written or printed records, handwritten notes, telephone logs, telephone scripts, 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 or personal finances of the Defendants.

**V.
MAINTENANCE OF CURRENT BUSINESS RECORDS**

IT IS FURTHER ORDERED that Defendants are hereby restrained and enjoined from:

- A. Failing to create and maintain documents that, in reasonable detail, accurately, fairly, and completely reflect their 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 the Commission 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.

**VI.
DISTRIBUTION OF ORDER BY DEFENDANTS**

IT IS FURTHER ORDERED that Defendants shall immediately provide a copy of this Order to each officer, director and employee of any Defendant, and shall, within ten (10) days from the date of entry of this Order, provide the Commission with a sworn statement that Defendants have complied with this provision of the Order, which statement shall include the names and addresses of each such person or entity who received a copy of the Order.


**XII.
SERVICE OF ORDER**

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission, upon any financial institution or other entity or person that may have possession, custody, or control of any documents or assets of the Defendants, or that may be subject to any provision of this Order.

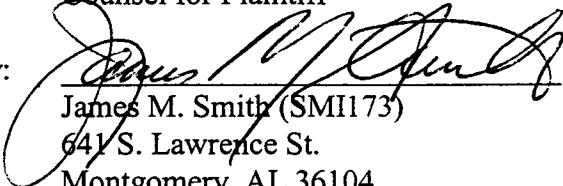
**VIII.
RETENTION OF JURISDICTION**

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

Stipulated and Agreed to:

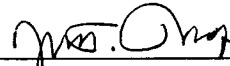
By: 
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Counsel for Plaintiff

6/24/99
Date

By: 
James M. Smith (SM1173)
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Counsel for Defendants
WebViper, LLC
Tigerhawk, LLC
Thomas J. Counts, and
Patrick C. Taylor

6-23-99
Date

SO ORDERED, this 28th day of June, 1999


United States District Judge
Middle District of Alabama