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Nicholas C. Albert

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CENTRAL DISTRICT OF CALIFORNIA
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10
11 UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

12 FEDERAL TRADE COMMISSION,
13 Plaintiff,
14 v.
15 Enternet Media, Inc., Conspy & Co.,
16 Inc.; Lida Rohbani, Nima Hakimi,
17 Baback (Babak) Hakimi, Nicholas C.
18 Albert
19 Defendants.

CIVIL NO. CV 05-7777 CAS
AJWx
Stipulated Final Order for
Permanent Injunction and
Monetary Judgment As To
Defendant Nicholas C. Albert

21 Plaintiff, the Federal Trade Commission ("FTC" or the "Commission"), filed its
22 complaint against defendants Enternet Media, Inc.; Conspy & Co., Inc.; Lida
23 Rohbani, individually and as an officer of Enternet Media, Inc. and Conspy & Co.,
24 Inc.; Nima Hakimi, individually and as an officer of Enternet Media, Inc. and
25 Conspy & Co., Inc.; Baback (Babak) Hakimi, individually, doing business as
26 Network One, and as an officer of Enternet Media, Inc. and Conspy & Co., Inc.;
27 and Nicholas C. Albert for injunctive and other equitable relief in this matter
28 pursuant to Sections 5 and 13(b) of the Federal Trade Commission Act ("FTC

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U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES

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1 Act”), 15 U.S.C. §§ 45(a), 53(b), on November 1, 2005. The Court ordered *ex*
2 *parte* Temporary Restraining Orders on November 1 and 2nd, 2005, and a
3 Preliminary Injunction was entered on November 30, 2005. The Commission and
4 defendant Nicholas C. Albert (“defendant”), by and through their counsel, hereby
5 stipulate to the entry of, and request the Court to enter, this Stipulated Final Order
6 for Permanent Injunction and Monetary Judgment as to Defendant Nicholas C.
7 Albert (“Order”), to resolve all matters of dispute between them in this action.

8 **IT IS THEREFORE STIPULATED, AGREED, AND ORDERED** as
9 follows:

- 10 1. This Court has jurisdiction over the subject matter of this case, and it
11 has jurisdiction of all parties hereto pursuant to 15 U.S.C. §§ 45(a),
12 53(b), and 28 U.S.C. §§ 1331, 1337(a), and 1345;
- 13 2. Venue is proper as to all parties in the Central District of California
14 pursuant to 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b) and (c);
- 15 3. The defendant’s activities are in or affecting “commerce” as that term is
16 defined in Section 4 of the FTC Act, 15 U.S.C. § 44;
- 17 4. The facts that the FTC has stated in its complaint, if true, would state a
18 claim upon which relief may be granted under Sections 5(a) and 13(b) of
19 the FTC Act, 15 U.S.C. §§ 45(a) and 53(b);
- 20 5. The defendant has entered into this Order freely and without coercion,
21 and the defendant acknowledges that he has read the provisions of this
22 Order and is prepared to abide by them;
- 23 6. The undersigned, individually and by and through their counsel, have
24 agreed that the entry of this Order resolves all matters of dispute
25 between them arising from the Complaint in this action, up to the date of
26 entry of this Order. This Order, however, shall have no preclusive effect
27 as to any action brought by any other state or federal law enforcement
28 agency;

- 1 7. The defendant waives all rights to seek appellate review or otherwise
2 challenge or contest the validity of this Order. The defendant further
3 waives and releases any claim he may have against the Commission, its
4 employees, representatives, or agents;
- 5 8. The defendant agrees that this Order does not entitle the defendant to
6 seek or to obtain attorneys' fees as a prevailing party under the Equal
7 Access to Justice Act, 28 U.S.C. § 2412, as amended by Pub. L. 104-
8 121, 110 Stat. 847, 863-64 (1996), and the defendant further waives any
9 rights to attorneys' fees that may arise under said provision of law;
- 10 9. This order is remedial in nature and no portion of any payments paid
11 herein shall be deemed or construed as payment of a fine, damages,
12 penalty or punitive assessment; and
- 13 10. Entry of this Order is in the public interest.

14 **ORDER**

15 **DEFINITIONS**

16 For the purposes of this Order, the following definitions shall apply:

- 17 A. **"Assets"** means any legal or equitable interest in, right to, or claim to,
18 any real, personal, or intellectual property of the defendant, or held for
19 the benefit of the defendant, wherever located, including, but not limited
20 to, chattel, goods, instruments, equipment, fixtures, general intangibles,
21 effects, leaseholds, contracts, mail or other deliveries, shares of stock,
22 inventory, checks, notes, accounts, credits, receivables (as those terms
23 are defined in the Uniform Commercial Code), cash, and trusts,
24 including but not limited to any other trust held for the benefit of the
25 defendant, the defendant's minor children, or the defendant's spouse.
- 26 B. **"Bar," "Frame" or "Window"** means an enclosed area on a
27 computer's computer screen, usually rectangular in shape.
- 28 C. **"Defendant"** means Nicholas C. Albert and his successors and assigns.

- 1 D. **“Dialer program”** means any computer program that causes a
2 computer’s modem to make telephone calls or access services.
- 3 E. **“Document”** is synonymous in meaning and equal in scope to the usage
4 of the term in the Federal Rules of Civil Procedure 34(a), and includes
5 writing, drawings, graphs, charts, Internet sites, Web pages, Web sites,
6 electronic correspondence, including e-mail and instant messages,
7 photographs, audio and video recordings, contracts, accounting data,
8 advertisements (including, but not limited to, advertisements placed on
9 the World Wide Web), FTP Logs, Server Access Logs, USENET
10 Newsgroup postings, World Wide Web pages, books, written or printed
11 records, handwritten notes, telephone logs, telephone scripts, receipt
12 books, ledgers, personal and business canceled checks and check
13 registers, bank statements, appointment books, computer records, and
14 other data compilations from which information can be obtained and
15 translated. A draft or non-identical copy is a separate document within
16 the meaning of the term.
- 17 F. **“Plaintiff”** means the Federal Trade Commission.

18 CONDUCT PROHIBITIONS

19 I.

20 **IT IS THEREFORE ORDERED** that, in connection with marketing,
21 publishing, or distributing any type of software code, file, or content, or assisting
22 and facilitating others in marketing, publishing, or distributing any type of
23 software code, file, or content, the defendant, and those persons in active concert
24 or participation with him who receive actual notice of this Order by personal
25 service or otherwise, are permanently restrained and enjoined from directly or
26 indirectly making, expressly or by implication, any material false or misleading
27 representation or omission, including but not limited to, any representation or
28 omission:

- 1 A. regarding the nature or effect of the software code, file, or content,
2 such as any representation that it is innocuous software code, file, or
3 content, such as an Internet browser upgrade or other computer
4 security software, music, song lyric, or cell phone ring tone;
5 B. regarding the performance, benefits, efficacy, or features of the
6 software code, file, or content;
7 C. regarding the actual cost, or "free" nature, associated with the
8 software code, file, or content; or
9 D. failing to disclose that any other software code, file, or content, of any
10 kind, is bundled with the software code, file, or content.

11 **II.**

12 **IT IS FURTHER ORDERED** that, in connection with marketing,
13 publishing, or distributing any software code, file, or content, or assisting and
14 facilitating others in marketing or distributing any software code, file, or content,
15 the defendant, and those persons in active concert or participation with him who
16 receive actual notice of this Order by personal service or otherwise, are
17 permanently restrained and enjoined from, directly or indirectly, publishing,
18 disseminating, distributing, installing, or downloading any software code, file, or
19 content that interferes with a consumer's computer use, including but not limited
20 to any software code, file, or content that:

- 21 A. tracks consumers' Internet activity or collects other personal
22 information;
23 B. changes consumers' preferred Internet homepage or other browser
24 settings;
25 C. inserts a new toolbar onto consumers' Internet browsers;
26 D. inserts a new bar, frame or window onto consumers' browser
27 windows that in turn displays advertisements;
28 E. displays numerous "pop up" advertisements on consumers' computer

1 screens during a single computer session, even when consumers'
2 Internet browsers are closed;

3 F. installs a dialer program on consumers' computers;

4 G. changes a user's "error" page or DNS page;

5 H. inserts advertising hyperlinks into third-party webpages; or

6 I. installs other advertising software code, file, or content on
7 consumers' computers.

8 **III.**

9 **IT IS FURTHER ORDERED** that, in connection with marketing,
10 publishing, or distributing any software code, file, or content, the defendant and
11 those persons in active concert or participation with him who receive actual notice
12 of this Order by personal service or otherwise, are permanently restrained and
13 enjoined from providing others with the means and instrumentalities with which to
14 do the following:

15 A. to make, directly or indirectly, expressly or by implication, any
16 material false or misleading representation, including but not limited
17 to any representation:

- 18 1. regarding the nature or effect of the software code, file, or
- 19 content, such as any representation that it is innocuous software
- 20 code, file, or content, such as an Internet browser upgrade or
- 21 other computer security software, music, song lyric, or cell
- 22 phone ring tone;
- 23 2. regarding the performance, benefits, efficacy, or features of the
- 24 software code, file, or content; or
- 25 3. regarding the actual cost, or "free" nature, associated with the
- 26 software code, file, or content.

27 B. to publish, disseminate, distribute, install, or download any software
28 code, file, or content that interferes with consumers' computer use,

1 including but not limited to any software code, file, or content that:

- 2 1. tracks consumers' Internet activity or collects other personal
3 information;
- 4 2. changes consumers' preferred Internet homepage or other
5 browser settings;
- 6 3. inserts a new toolbar onto consumers' Internet browsers;
- 7 4. inserts a large side "frame" or "window" onto consumers'
8 browser windows that in turn displays advertisements;
- 9 5. displays numerous "pop up" advertisements on consumers'
10 computer screens during a single computer session, even when
11 consumers' Internet browsers are closed;
- 12 6. installs a dialer program on consumers' computers;
- 13 7. changes a user's "error" page or DNS pages;
- 14 8. inserts advertising hyperlinks into third-party webpages; or
15 9. installs other advertising software code, file, or content on
16 consumers' computers.

17 **IV.**

18 **IT IS FURTHER ORDERED** that, in connection with distributing or
19 advertising, promoting, marketing, offering for sale or license, or selling or
20 licensing, any product or service, the defendant, and those persons in active
21 concert or participation with him who receive actual notice of this Order by
22 personal service or otherwise, are permanently restrained and enjoined from
23 making, or assisting others in making, directly or indirectly, expressly or by
24 implication, any material false or misleading representation.

25 **MONETARY JUDGMENT**

26 **V.**

27 **IT IS FURTHER ORDERED** that:

- 28 A. Judgment in the amount of \$3,300.00 (three thousand, three hundred

1 dollars) is hereby entered against the defendant. This amount
2 represents the defendant's gross revenues from the conduct that the
3 FTC alleges violated the FTC Act. Prior to or concurrently with the
4 execution of this Order, the defendant shall cause that amount to be
5 transferred to an interest-bearing escrow account and/or interest-
6 bearing trust account. The sole signatory on the account shall be
7 Augustus Ross, the Escrow Agent, who shall hold the entire sum for
8 no purpose other than payment to the Commission upon entry of this
9 Order by the Court.

10 B. This amount shall be paid to the Federal Trade Commission within
11 five (5) days after the date of entry of this Order by wire transfer in
12 accord with directions provided by the Commission.

13 C. All funds paid pursuant to the Order shall be deposited into an
14 account administered by the Commission or its agent to be used for
15 equitable relief, including but not limited to consumer redress, and
16 any attendant expenses for the administration of such equitable relief.
17 In the event that direct redress to consumers is wholly or partially
18 impracticable or funds remain after redress is completed, the
19 Commission may apply any remaining funds for such other equitable
20 relief (including consumer information remedies) as it determines to
21 be reasonably related to the defendant's practices alleged in the
22 complaint. Any funds not used for such equitable relief shall be
23 deposited to the United States Treasury as disgorgement. The
24 defendant shall have no right to challenge the Commission's choice
25 of remedies under this Paragraph. The defendant shall have no right
26 to contest the manner of distribution chosen by the Commission.

27 D. The defendant relinquishes all dominion, control and title to the funds
28 paid into the account established pursuant to this Order, and all legal

1 and equitable title to funds shall vest in the Treasurer of the United
2 States unless and until such funds are disbursed to consumers. The
3 defendant shall make no claim to or demand for the return of funds,
4 directly or indirectly, through counsel or otherwise; and in the event
5 of bankruptcy, the defendant acknowledges that the funds are not part
6 of the debtor's estate, nor does the estate have any claim or interest
7 therein.

8 E. The defendant agrees that the facts as alleged in the Complaint filed
9 in this action shall be taken as true for the purpose of a
10 nondischargeability complaint in any bankruptcy proceeding.

11 F. Proceedings instituted under this Paragraph are in addition to, and not
12 in lieu of, any other civil or criminal remedies that may be provided
13 by law, including any other proceedings the Commission may initiate
14 to enforce this Order.

15 COMPLIANCE MONITORING

16 VI.

17 **IT IS FURTHER ORDERED** that, for purposes of monitoring and
18 investigating compliance with any provision of this Order,

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

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

- 1 1. obtaining discovery from any person, without further leave of
- 2 court, using the procedures prescribed by Fed. R. Civ. P. 30,
- 3 31, 33, 34, 36, and 45;
- 4 2. posing as consumers and suppliers to defendant's employees,
- 5 or any other entity managed or controlled in whole or in part by
- 6 the defendant, without the necessity of identification or prior
- 7 notice; and

8 C. Defendant shall permit representatives of the Commission to

9 interview any employer, consultant, independent contractor,

10 representative, agent, or employee who has agreed to such an

11 interview, relating in any way to any conduct subject to this Order.

12 The person interviewed may have counsel present.

13 *Provided, however,* that nothing in this Order shall limit the Commission's

14 lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act,

15 15 U.S.C. §§ 49, 57b-1, to obtain any documentary material, tangible things,

16 testimony, or information relevant to unfair or deceptive acts or practices in or

17 affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

18 **MONITORING BY DEFENDANT**

19 **VII.**

20 **IT IS FURTHER ORDERED** that, for a period of eight (8) years from the

21 date of entry of this Order, the defendant and his agents, directors, employees,

22 salespersons, independent contractors, subsidiaries, affiliates, successors, assigns,

23 and all other persons in active concert or participation with any of them who

24 receive actual notice of this Order by personal service or otherwise, in connection

25 with the advertising, promotion, marketing, offering for sale, sale, or provision of

26 any goods or services on or through the Internet, the World Wide Web, or any web

27 page or web site, are hereby permanently restrained and enjoined from failing to:

- 28 A. Obtain contact information from any prospective participant in any

1 affiliate program. In the case of a natural person, defendant shall
2 obtain the prospective participant's first and last name, physical
3 address, country, telephone number, e-mail address, date of birth, and
4 complete bank account information as to where payments are to be
5 made. In the case of other business entities, the defendant shall
6 obtain the first and last name, physical address, country, telephone
7 number, e-mail address, date of birth for the natural person who
8 owns, manages, or controls the prospective participant, and complete
9 bank account information as to where payments are to be made.

10 B. Prior to any such prospective participant's acceptance into any
11 affiliate program, (1) provide each such person a copy of this Order;
12 (2) obtain from each such person a signed and dated statement
13 acknowledging receipt of this Order and expressly agreeing to
14 comply with this Order. Any electronic signature requirements of the
15 Electronic Signatures in Global and National Commerce Act, ("E-
16 Sign Act"), 15 U.S.C. §§ 7001 et seq.; and (3) clearly and
17 prominently disclose that engaging in acts or practices prohibited by
18 this Order will result in immediate termination of any affiliate
19 program participant and forfeiture of all monies received or owed;

20 C. Establish, implement, and thereafter maintain an Internet-based
21 mechanism, including, but not limited to, e-mail for: (1) consumers to
22 report complaints to the defendant regarding the practices of any
23 affiliate program participant; (2) the defendant to associate, correctly,
24 each such complaint with the affiliate that is the subject of the
25 complaint; and (3) the defendant to receive and respond to such
26 complaints, whether received directly or indirectly, in a timely
27 manner. The defendant shall clearly and prominently disclose the
28 existence of such reporting mechanism on his web sites;

1 D. Promptly and completely investigate any complaints that the
2 defendant receives through Paragraph VII.C or any other source to
3 determine whether any such participant is engaging in acts or
4 practices prohibited by this Order; and

5 E. Terminate, immediately, any participant in any affiliate program that
6 the defendant reasonably concludes has engaged in or is engaging in
7 acts or practices prohibited by this Order and cease payments to any
8 such person.

9 Provided, however, that this Paragraph does not authorize or require the
10 defendant to take any action that violates any federal, state, or local law.

11 **MONITORING BY DEFENDANT**

12 **(Participation in the Affiliate Programs of Others)**

13 **VIII.**

14 **IT IS FURTHER ORDERED** that, for a period of eight (8) years from the
15 date of entry of this Order, the defendant and his agents, directors, employees,
16 salespersons, independent contractors, subsidiaries, affiliates, successors, assigns,
17 and all other persons in active concert or participation with any of them who
18 receive actual notice of this Order by personal service or otherwise, in connection
19 with participation in any third-party affiliate program involving advertising,
20 promotion, marketing, offering for sale, sale, or provision of any goods or services
21 on or through the Internet, the World Wide Web, or any web page or web site, are
22 hereby permanently restrained and enjoined from failing to:

23 A. Obtain contact information from any prospective affiliate program in
24 which the defendant may participate. In all cases, the defendant shall
25 obtain the first and last name, physical address, country, telephone
26 number, and e-mail address for the natural person who owns,
27 manages, or controls the prospective affiliate program.

28 B. Establish, implement, and thereafter maintain a process by which the

1 defendant regularly reviews the marketing materials of any affiliate
2 program that the defendant is displaying to consumers to ensure that
3 the affiliate program is not engaging in acts or practices prohibited by
4 this Order.

5 C. Establish, implement, and thereafter maintain an Internet-based
6 mechanism, including, but not limited to, e-mail for: (1) consumers to
7 report complaints to the defendant regarding the practices of any
8 affiliate program in which the defendant participates; (2) the
9 defendant to associate, correctly, each such complaint with the
10 affiliate program that is the subject of the complaint; and (3) the
11 defendant to receive and respond to such complaints, whether
12 received directly or indirectly, in a timely manner. The defendant
13 shall clearly and prominently disclose the existence of such reporting
14 mechanism on his web sites;

15 D. Promptly and completely investigate any complaints that the
16 defendant receives through Paragraph VIII.C or any other source to
17 determine whether any such affiliate program is engaging in acts or
18 practices prohibited by this Order; and

19 E. Terminate, immediately, participation in any affiliate program that the
20 defendant reasonably concludes has engaged in or is engaging in acts
21 or practices prohibited by this Order and cease collecting payments
22 from any such program.

23 Provided, however, that this Paragraph does not authorize or require the
24 defendant to take any action that violates any federal, state, or local law.

25 COMPLIANCE REPORTING BY DEFENDANT

26 IX.

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

1 A. For a period of four (4) years from the date of entry of this Order,

2 1. The defendant, Nicholas C. Albert, shall notify the Commission
3 of the following:

4 a. Any changes in residence, mailing addresses, and
5 telephone numbers of the defendant, within ten (10) days
6 of the date of such change;

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

17 c. The defendant's participation in any third-party affiliate
18 program involving advertising, promotion, marketing,
19 offering for sale, sale, or provision of any goods or
20 services on or through the Internet, the World Wide
21 Web, or any web page or web site; and

22 d. Any changes in the defendant's name or use of any
23 aliases or fictitious names; and

24 2. Defendant shall notify the Commission of any business entity
25 that the defendant directly or indirectly controls, or has an
26 ownership interest in, that may affect compliance obligations
27 arising under this Order, including but not limited to a
28 dissolution, assignment, sale, merger, or other action that

1 would result in the emergence of a successor entity; the
2 creation or dissolution of a subsidiary, parent, or affiliate that
3 engages in any acts or practices subject to this Order; the filing
4 of a bankruptcy petition; or a change in the corporate name or
5 address, at least thirty (30) days prior to such change, *provided*
6 that, with respect to any proposed change in the corporation
7 about which the defendant(s) learns less than thirty (30) days
8 prior to the date such action is to take place, defendant shall
9 notify the Commission as soon as is practicable after obtaining
10 such knowledge.

11 B. One hundred eighty (180) days after the date of entry of this Order,
12 the defendant shall provide a written report to the FTC, sworn to
13 under penalty of perjury, setting forth in detail the manner and form
14 in which he has complied and is complying with this Order. This
15 report shall include, but not be limited to:

- 16 1. The then-current residence address, mailing addresses, and
17 telephone numbers of the defendant;
- 18 2. The then-current employment and business addresses and
19 telephone numbers of the defendant, a description of the
20 business activities of each such employer or business, and the
21 title and responsibilities of the defendant for each such
22 employer or business;
- 23 3. The then-current list of affiliate programs that the defendant
24 operates or participates in;
- 25 4. Any other changes required to be reported under subparagraph
26 A of this Section; and
- 27 5. A copy of each acknowledgment of receipt of this Order
28 obtained by the defendant pursuant to **Paragraphs VII and XI**

1 of this Order.

- 2 C. For the purposes of this Order, the defendant shall, unless otherwise
3 directed by the Commission's authorized representatives, mail all
4 written notifications to the Commission to:

5 Associate Director for the Division of Enforcement
6 Federal Trade Commission
7 601 New Jersey Avenue, NW
8 Washington, DC 20580

9 Re: FTC v. Enternet Media, Inc., et al. Civil Action No. 05-7777

- 10 D. For purposes of the compliance reporting and monitoring required by
11 this Order, the Commission is authorized to communicate directly
12 with the defendant.

13 RECORD KEEPING PROVISIONS

14 X.

15 **IT IS FURTHER ORDERED** that, for a period of eight (8) years from the
16 date of entry of this Order, the defendant, for any business that the defendant
17 directly or indirectly controls, or in which the defendant has a majority ownership
18 interest, in which the business is directly or indirectly engaged in the business of
19 advertising, promoting, marketing, offering for sale or license, or selling or
20 licensing any product or service via the Internet, and their agents, employees,
21 officers, corporations, successors, and assigns, and those persons in active concert
22 or participation with them who receive actual notice of this Order by personal
23 service or otherwise, are hereby restrained and enjoined from failing to create and
24 retain the following records:

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

27 B. Personnel records accurately reflecting: the name, address, and
28 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;

E. Copies of all advertisements or other marketing materials, including but not limited to web sites, instant messages, e-mail messages, Internet web-based html "pop up" advertisements, and Internet banner advertisements; and

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

DISTRIBUTION OF ORDER BY DEFENDANT

XI.

IT IS FURTHER ORDERED that, for a period of four (4) years from the date of entry of this Order, the defendant shall deliver copies of the Order as directed below:

A. Defendant as Control Person: For any business that the defendant directly or indirectly controls, or in which the defendant has a majority ownership interest, the defendant must deliver a copy of this Order to all principals, officers, directors, and managers of that business. The defendant must also deliver copies of this Order to all employees, agents, affiliates, sub-affiliates, and representatives of that

1 business who engage in conduct related to the subject matter of this
2 Order. For current personnel, delivery shall be made within five (5)
3 days of service of this Order upon the defendants. For new personnel,
4 delivery shall occur prior to the new personnel assuming their
5 responsibilities.

6 B. Defendant as Employee or Non-Control Person: For any business
7 where the defendant is not a controlling person of the business but
8 otherwise engages in conduct that is related to the subject matter of
9 this Order, the defendant must deliver a copy of this Order to all
10 principals and managers of such business before engaging in such
11 conduct.

12 C. Defendant must secure a signed and dated statement acknowledging
13 receipt of the Order, within thirty (30) days of delivery, from all
14 persons receiving a copy of the Order pursuant to this Part.

15 **ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANT**

16 **XII.**

17 **IT IS FURTHER ORDERED** that the defendant, within five (5) business
18 days of receipt of this Order as entered by the Court, must submit to the
19 Commission a truthful sworn statement acknowledging receipt of this Order.
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SCANNER

RETENTION OF JURISDICTION

XIII.

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

SO ORDERED, this 11th day of December, 2006, at Los Angeles, California.

Christina A. Snyder

The Honorable Christine A. Snyder
United States District Judge
United States District Court
Central District of California

Stipulated and agreed to by:

Nicholas C. Albert

Nicholas C. Albert, Defendant

Dated: 9-15-06

Augustus L. Ross, III

Augustus L. Ross, III, Esq.
Attorney for Defendant
Nicholas C. Albert

Dated: 9-18-06

Colleen B. Robbins

Mona Sedky Spivack (DC #447968)
Colleen B. Robbins (NY #2882710)
J. Ronald Brooke, Jr. (MD #0202280002)
Attorneys for Plaintiff
Federal Trade Commission

Dated: 12/7/06

SCANNED

1 WILLIAM BLUMENTHAL
General Counsel

2 Mona Sedky Spivack, DC #447968
3 Colleen B. Robbins, NY #2882710
4 J. Ronald Brooke, Jr., MD #0202280002
Federal Trade Commission
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14 **UNITED STATES DISTRICT COURT**
15 **CENTRAL DISTRICT OF CALIFORNIA**

16 FEDERAL TRADE COMMISSION,
17 Plaintiff,
18 v.
19 Enternet Media, Inc., et al.,
20 Defendants.

CIVIL NO. CV 05-7777 CAS AJXx

PROOF OF SERVICE
STIPULATED FINAL ORDER
AS TO DEFENDANT
NICHOLAS C. ALBERT

21
22 **PROOF OF SERVICE**

23 I, Colleen B. Robbins, am over 18 years old and am one of the attorneys
24 representing Plaintiff, Federal Trade Commission ("FTC" or "Commission"), an
25 agency of the United States government, in this action against defendants Enternet
26 Media, Inc., Conspy & Co., Inc., Lida Rohbani, individually and as an officer of
27 Enternet Media, Inc. and Conspy & Co., Inc., Baback (Babak) Hakimi,
28

1 individually, doing business as Networld One, and as an officer of Enternet Media,
2 Inc., and Conspy & Co., Inc., Nima Hakimi, individually and as an officer of
3 Enternet Media, Inc. and Conspy & Co., Inc ("Enternet Media defendants"), and
4 Nicholas C. Albert, individually and doing business as Iwebtunes and
5 www.iwebtunes.com ("defendant Albert"). My business address is FTC, 600
6 Pennsylvania Ave., N.W., Room H-292, Washington, D.C. 20580. On December
7 7, 2006, I served the within document:

8 **STIPULATED FINAL ORDER FOR PERMANENT INJUNCTION AND**
9 **MONETARY JUDGMENT AS TO DEFENDANT NICHOLAS C. ALBERT**

10 By transmitting via electronic mail the document(s) listed above to the
11 e-mail address(es) set forth below on this date before 6:00 p.m. EST.

12 By placing the document(s) listed above in a sealed overnight envelope
13 and depositing it for overnight delivery via FTC's Federal Express Drop
14 Off box at the FTC's Headquarters in Washington, DC, addressed as set
15 forth below.

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Lida Rohbani, Nima Hakimi, and
Baback Hakimi

Attorney for Defendant Nicholas
C. Albert

23 I declare under the penalty of perjury that the above is true and correct.

24 Executed on December 7, 2006.



25
26 Colleen B. Robbins
27
28