

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

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FEDERAL TRADE COMMISSION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO. 3:02-CV-0679-D
	)	
AFFILIATED VENDORS ASSOCIATION, INC.,	)	
a Texas corporation, also doing business as AVA	)	
and North American Business Registry,	)	
	)	
MAURICE BILLION, individually and as an	)	
officer of the corporation, and	)	
	)	
JOYCE BILLION, individually and as an	)	
officer of the corporation	)	
	)	
Defendants.	)	

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**STIPULATED FINAL JUDGMENT AND ORDER**

Plaintiff Federal Trade Commission (“FTC” or “Commission”), pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §53(b), filed its Complaint for a permanent injunction and other relief, including consumer redress, and moved *ex parte* for a Temporary Restraining Order pursuant to Rule 65 of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 65.

On April 3, 2002, this Court granted an *ex parte* Temporary Restraining Order and ordered Defendants to show cause why a preliminary injunction should not issue against them. The parties subsequently agreed to entry of a Stipulated Preliminary Injunction, which this Court entered on April 8, 2002.

The FTC, by and through its counsel, and Defendants Affiliated Vendors Association, Inc., Maurice Billion, and Joyce Billion, have agreed to the entry of this Stipulated Final Judgment and Order (“Order”) by this Court, to resolve all matters of dispute between them in this action without trial or adjudication of any issue of law or fact. The said parties having requested the Court to enter this Order, it is therefore **ORDERED, ADJUDGED AND DECREED** as follows:

### **FINDINGS**

1. This Court has jurisdiction over the subject matter and of the parties to this action under 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 53(b). Venue in the Northern District of Texas is proper under 28 U.S.C. §§ 1391(b) and (c), and 15 U.S.C. § 53(b).
2. The Complaint states a claim upon which relief may be granted under Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a) and 53(b).
3. The Commission has the authority under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b) to seek the relief it has requested.
4. The activities of Defendants are in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
5. Defendants enter into this Order freely and without coercion and acknowledge that they understand the provisions of this Order and are prepared to abide by its terms.
6. This civil action and the relief awarded herein is in addition to, and not in lieu of, other remedies as may be provided by law, including both civil and criminal remedies.
7. The parties agree that this Order shall be construed as solely remedial in nature, and shall not be construed as the payment of any fine, penalty, punitive assessment, or forfeiture.
8. This Order resolves all matters arising from the allegations in this Complaint.

9. Defendants waive all rights to seek judicial review or otherwise challenge or contest the validity of this Order, and further waive and release any claims Defendants may have against the Commission and the Commission's employees, agents, or representatives. Defendants also waive any claim they may have under the Equal Access to Justice Act.

10. Any voluntary bankruptcy petition filed by Defendants does not automatically stay this action, which the Court finds is the "commencement or continuation of any action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power" as set forth in 11 U.S.C. § 362(b)(4).

11. Any voluntary bankruptcy petition filed by any Defendant does not divest this Court of jurisdiction to enter this final judgment against defendants.

12. Entry of this Order is in the public interest.

## **DEFINITIONS**

For purposes of this 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, chattel, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds, mail or other deliveries, inventory, checks, notes, accounts, credits, receivables (as those terms are defined in the Uniform Commercial Code), and all cash, wherever located.

2. **"Defendants"** means Affiliated Vendors Association, Inc., also doing business as AVA, North American Business Registry and possibly other names, Maurice Billion and Joyce Billion, and each of them.

3. **"Individual Defendants"** means Maurice Billion and Joyce Billion, and each of them.

4. **"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 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.

5. **“Material”** means likely to affect a person’s choice of, or conduct regarding, goods or services.

6. **“Person”** means any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.

7. **“Majority owner of the business”** means that the subject person owns more than fifty percent (50%) of the ownership interest in the business.

8. The terms **“franchise”** and **“franchisor”** are defined in Sections 436.2(a) and (c) of the Franchise Rule, 16 C.F.R. § 436.2(a) and (c), and include “business opportunity ventures” as defined in Sections 436.2(a)(1)(ii) and (2) of the Rule, and discussed in the FTC’s Final Interpretive Guide for the Franchise Rule, 44 Fed. Reg. 49966-68 (August 24, 1979). The term “franchise” in this Order shall also encompass any successor definition of “franchise,” “business opportunity” and “business opportunity venture” in any future trade regulation rule or rules that may be promulgated by the Commission to modify or supersede the Franchise Rule, in whole or in part, from the date any such rule takes effect.

9. **“Business venture”** means any written or oral business arrangement, however denominated, whether or not covered by the Franchise Rule, which consists of the payment of any consideration for:

- a. The right or means to offer, sell or distribute goods or services (whether or not identified by a trademark, service mark, trade name, advertising, or other commercial symbol); and

- b. The promise or provision of assistance to any person in connection with (1) the establishment, maintenance, or operation of any new business; or (2) the entry by an existing business into a new line or type of business, including, but not limited to, referrals to one or more persons providing location services.

## **ORDER**

### **I. PERMANENT BAN**

**IT IS THEREFORE ORDERED** that the Defendants are hereby permanently restrained and enjoined from:

- A. Receiving any compensation or remuneration in exchange for serving as a reference; and
- B. Using the names Affiliated Vendors Association, Inc., North American Business Registry, or any variation thereof, including but not limited to, AVA, Affiliated Vendors and NABR.

### **II. PROHIBITED REPRESENTATIONS**

**IT IS FURTHER ORDERED** that in connection with any business that reports information on a franchise, business opportunity or business venture to consumers, and/or assists others engaged in reporting information on a franchise, business opportunity or business venture to consumers, Defendants and their officers, directors, agents, servants, employees, salespersons, and all other persons or entities directly or indirectly under their control, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, and each of them, are hereby permanently restrained and enjoined from making or assisting others in the making of, any statement or representation of material fact that is false or misleading, whether directly or by implication, orally or in writing, including, but not limited to, any or all of the following:

- A. That Defendants provide independent and reliable reports which accurately describe the franchise, business opportunity or business venture;
- B. That Defendants protect consumers from unethical and fraudulent franchises, business opportunities or business ventures;
- C. That Defendants monitor and/or report information about the way a franchise, business opportunity or business venture operates;
- D. That Defendants monitor and/or report information about the way a franchise, business opportunity or business venture handles complaints;
- E. Concerning whether a franchise, business opportunity or business venture has a quality product;
- F. Concerning whether a franchise, business opportunity or business venture responds quickly to problems brought to its attention;
- G. Concerning the number of complaints about a franchise, business opportunity or business venture, either oral or written, that Defendants have received; or
- H. Concerning the length of time a franchise, business opportunity or business venture has operated, and/or the length of time a person has been in a particular industry.

### **III. PROHIBITION AGAINST DISTRIBUTION OF CUSTOMER LISTS**

**IT IS FURTHER ORDERED** that Defendants and their officers, directors, agents, servants, employees, salespersons, and all other persons or entities directly or indirectly under their control, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, and each of them are permanently restrained and enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, credit card

number, bank account number, or other identifying information of any person who contacted any Defendant seeking information about one of Defendants' members. *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. SUSPENDED JUDGMENT**

**IT IS FURTHER ORDERED** that judgment is entered against Defendants, jointly and severally, in the amount of \$400,000 provided, however, that this judgment shall be suspended subject to the conditions set forth in Paragraph V. of this Order.

#### **V. RIGHT TO REOPEN**

**IT IS FURTHER ORDERED** that the Commission's agreement to this Order is expressly premised upon the truthfulness, accuracy and completeness of financial statements provided by Defendants to the Commission on April 10, 2002, April 30, 2002, and May 21, 2002. Said financial statements contain material information upon which the FTC has relied in negotiating and agreeing to the terms of this Order. The Commission is authorized to verify all information provided in the financial statements and with all appropriate third parties, including, but not limited to, financial institutions. If, upon motion by the Commission to the Court, the Court finds that any Defendant failed to disclose any material asset, or materially misrepresented the value of any asset, or made any other material misrepresentation in or omission from their financial statements, the suspension of the monetary judgment will be terminated and the entire judgment amount of \$400,000 will be immediately due and payable. For purposes of this Paragraph, and any subsequent proceedings to enforce payment, each Defendant stipulates to all of the allegations in the Commission's Complaint.

#### **VI. ASSET FREEZE LIFTED**

**IT IS FURTHER ORDERED** that the freeze against Defendants' assets pursuant to the Stipulated Preliminary Injunction entered by this Court on April 8, 2002 shall be lifted upon entry of this Order.

**VII. ACCESS TO BUSINESS PREMISES**

**IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of entry of this Order, for the purpose of further determining compliance with this Order, Defendants shall permit representatives of the Commission, within three (3) business days of receipt of written notice from the Commission:

- A. Access during normal business hours to any office, or facility storing documents, of any business where
  - 1. either Individual Defendant is the majority owner of the business or directly or indirectly manages or controls the business, or where both Individual Defendants own more than 50% of the business, and where
  - 2. the business reports information on a franchise, business opportunity or business venture to consumers, and/or assists others engaged in reporting information on a franchise, business opportunity or business venture to consumers.

In providing such access, the Individual Defendants shall permit representatives of the Commission to inspect and copy all documents relevant to any matter contained in this Order, and shall permit Commission representatives to remove documents relevant to any matter contained in this Order for a period not to exceed five (5) business days so that the documents may be inspected, inventoried, and copied; and

- B. To interview the officers, directors, and employees, including all personnel involved in responding to consumer complaints or inquiries, and all sales personnel, whether designated as employees, consultants, independent contractors or otherwise, of any business to which Subsection A of this Paragraph applies, concerning matters relating to compliance with the terms of this Order. The person interviewed may have counsel present.

*Provided* that, upon application of the Commission and for good cause shown, the Court may enter an *ex parte* order granting immediate access to Defendants' business premises for the purposes of inspecting and copying all documents relevant to any matter contained in this Order.

#### **VIII. COMPLIANCE REPORTING BY DEFENDANT**

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

- A. For a period of five (5) years from the date of entry of this Order, each Individual Defendant shall notify the Commission of the following:
1. Any changes in such Individual Defendant's residence, mailing addresses, and telephone numbers, within ten (10) days of the date of such change;
  2. Any changes in such Individual Defendant's employment status (including self-employment) within ten (10) days of such change. Such notice shall include the name and address of each business that the Individual Defendant is affiliated with or employed by, a statement of the nature of the business, and a statement of the Individual Defendant's duties and responsibilities in connection with the business or employment; and

3. Any proposed change in the structure of any business entity owned or controlled by the Individual Defendant, such as creation, incorporation, dissolution, assignment, sale, merger, creation, dissolution of subsidiaries, proposed filing of a bankruptcy petition, or change in the corporate name or address, or any other change that may affect compliance obligations arising out of this Order, thirty (30) days prior to the effective date of any proposed change;***provided, however,*** that, with respect to any proposed change in the corporation about which such Individual Defendant learns less than thirty (30) days prior to the date such action is to take place, he or she shall notify the Commission as soon as is practicable after learning of such proposed change;
- B. One hundred eighty (180) days after the date of entry of this Order, each Individual Defendant shall provide a written report to the FTC, sworn to under penalty of perjury, setting forth in detail the manner and form in which they have complied and are complying with this Order. This report shall include but not be limited to:
1. Such Individual Defendant's then current residence address and telephone number;
  2. Such Individual Defendant's then current employment, business addresses and telephone numbers, a description of the business activities of each such employer, and the Individual Defendant's title and responsibilities for each employer;
  3. A copy of each acknowledgment of receipt of this Order obtained by Defendants pursuant to Paragraph IX. of this Order;

4. A statement describing the manner in which each Defendant has complied and is complying with this Order.
- C. Upon written request by a representative of the Commission, each Defendant shall submit additional written reports (under oath, if requested) and produce documents on fifteen (15) days' notice with respect to any conduct subject to this Order;
- D. For the purposes of this Order, Defendants shall, unless otherwise directed by the Commission's authorized representatives, mail all written notifications to the Commission to:

Regional Director  
Federal Trade Commission  
East Central Region  
1111 Superior Avenue, East, Suite 200  
Cleveland, Ohio 44114  
Re: FTC v. Affiliated Vendors Association, Inc., et al

- E. For the purposes of this Paragraph, "employment" includes the performance of services as an employee, consultant, or independent contractor; and "employers" include any individual or entity for whom either Individual Defendant performs services as an employee, consultant, or independent contractor.
- F. For purposes of the compliance reporting required by this Paragraph, the Commission is authorized to communicate directly with Defendants.

**IX. DISTRIBUTION OF ORDER BY DEFENDANT**

**IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of entry of this Order, the Individual Defendants shall:

- A. Provide a copy of this Order to, and obtain a signed and dated acknowledgment of receipt of same from, each officer or director, each individual serving in a management capacity, all personnel involved in communicating with consumers and responding to consumer complaints or inquiries, whether designated as employees, consultants, independent contractors or otherwise, immediately upon employing or retaining any such persons, for any business where
1. either Individual Defendant is the majority owner of the business or directly or indirectly manages or controls the business, or where both Individual Defendants own more than 50% of the business, and where
  2. the business reports information on a franchise, business opportunity or business venture to consumers, and/or assists others engaged in reporting information on a franchise, business opportunity or business venture to consumers, and
- B. Maintain for a period of three (3) years after creation, and upon reasonable notice, make available to representatives of the Commission, the original signed and dated acknowledgments of the receipt of copies of this Order, as required in Subsection (A) of this Paragraph.

**X. COMMISSION'S AUTHORITY TO MONITOR COMPLIANCE**

**IT IS FURTHER ORDERED** that the Commission is authorized to monitor the Defendants' compliance with this Order by all lawful means, including but not limited to the following means:

- A. The Commission is authorized, without further leave of court, to obtain discovery from any person in the manner provided by Chapter V of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 26 - 37, including the use of compulsory process pursuant to Fed. R. Civ. P.

45, for the purpose of monitoring and investigating the Individual Defendant's compliance with any provision of this Order;

- B. The Commission is authorized to use representatives posing as consumers and suppliers to the Individual Defendants, their employees, or any other entity managed or controlled in whole or in part by either Individual Defendant, without the necessity of identification or prior notice;
- C. Nothing in this Order shall limit the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to investigate whether any Defendant has violated any provision of this Order or Section 5 of the FTC Act, 15 U.S.C. § 45.

## **XI. RECORD KEEPING PROVISIONS**

**IT IS FURTHER ORDERED** that, for a period of eight (8) years from the date of entry of this Order, in connection with any business where: (1) either Individual Defendant is the majority owner of the business or directly or indirectly manages or controls the business, or where both Individual Defendants own more than 50 % of the business, and (2) where the business reports information on a franchise, business opportunity or business venture to consumers, and/or assists others engaged in reporting information on a franchise, business opportunity or business venture to consumers, such Individual Defendant and his or her agents, employees, officers, corporations, successors, and assigns, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from failing to create and maintain the following records:

- A. Accounting records that reflect the cost of 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. Files containing the names, addresses, phone numbers, dollar amounts paid, and quantity of services purchased, to the extent such information is obtained in the ordinary course of business;
- D. Complaints and relief 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.

**XII. ACKNOWLEDGMENT OF RECEIPT OF ORDER**

**IT IS FURTHER ORDERED** that, within five (5) business days after entry of this Order, Defendants shall each submit to the Commission a truthful sworn and notarized statement, in the form shown on Exhibit A to this Order, that shall acknowledge receipt of this Order as entered.

**XIII. FEES AND COSTS**

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

**XIV. JURISDICTION**

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

**SO ORDERED**, this \_\_\_\_\_ day of \_\_\_\_\_, 2002, at \_\_\_\_\_ o'clock a.m. / p.m.

\_\_\_\_\_  
SIDNEY A. FITZWATER  
UNITED STATES DISTRICT JUDGE

**STIPULATED TO BY:**

**Plaintiff Federal Trade Commission:**

Date: \_\_\_\_\_

\_\_\_\_\_  
Dana C. Barragate  
Ohio Bar Number 0065748  
An Attorney for Plaintiff  
Federal Trade Commission  
East Central Region  
1111 Superior Avenue, Suite 200  
Cleveland, OH 44114

Telephone: 216-263-3402  
Facsimile: (216)263-3426

**Defendants:**

Date: \_\_\_\_\_

\_\_\_\_\_  
**Maurice Billion**, on behalf of the corporate defendant, **Affiliated Vendors Association, Inc.**

Date: \_\_\_\_\_

\_\_\_\_\_  
**Maurice Billion**, individually and as an officer of the corporate defendant **Affiliated Vendors Association, Inc.**

Date: \_\_\_\_\_

\_\_\_\_\_

**Joyce Billion**, individually and as an officer of the corporate defendant Affiliated Vendors Association, Inc.