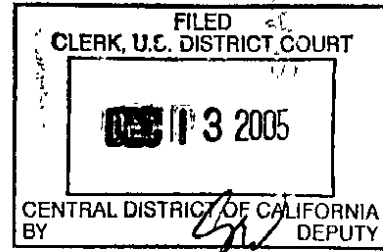


1 WILLIAM BLUMENTHAL
General Counsel

2 JOHN D. JACOBS, Cal. Bar #134154
3 JENNIFER M. BRENNAN, Cal. Bar #225473
4 BARBARA Y.K. CHUN, Cal. Bar #186907
Federal Trade Commission
10877 Wilshire Blvd., Ste. 700
5 Los Angeles, CA 90024
(310) 824-4343 (voice)
6 (310) 824-4380 (fax)
E-mail: jjacobs@ftc.gov; jmbrennan@ftc.gov; bchun@ftc.gov

7 DAVID C. FIX (pro hac vice)
8 Federal Trade Commission
600 Pennsylvania Ave., N.W
9 H-238
Washington, D.C. 20580
10 (202) 326-3298 (voice)
(202) 326-3395 (fax)
11 E-mail: dfix@ftc.gov

12 Attorneys for Plaintiff FTC



13
14 UNITED STATES DISTRICT COURT
15 CENTRAL DISTRICT OF CALIFORNIA
16 WESTERN DIVISION

17 Case No. CV-02-9270 DSF (AJWx)

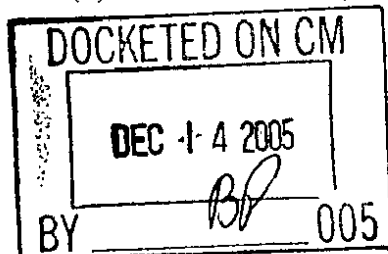
18 FEDERAL TRADE COMMISSION,
19 Plaintiff,
20 v.
21 TREK ALLIANCE, INC., et al.,
22 Defendants.

23 **STIPULATED FINAL ORDER**
24 **FOR PERMANENT INJUNCTION AND**
25 **OTHER EQUITABLE RELIEF**
26 **AGAINST DEFENDANT HARRY**
27 **FLAGG**

28 Plaintiff Federal Trade Commission ("Commission" or "FTC") filed a
Complaint for a permanent injunction and other equitable relief pursuant to Section
13(b) of the Federal Trade Commission Act ("FTC Act"). The Complaint charged
Defendants with violations of Section 5(a) of the FTC Act, as amended, 15 U.S.C.

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42
2005 DEC 13 11:42 AM
CLERK OF COURT
CENTRAL DISTRICT OF CALIFORNIA
BY [signature]



304

1 Plaintiff FTC and Defendant Harry Flagg have agreed to entry of this
2 Stipulated Final Order for Permanent Injunction and Other Equitable Relief
3 ("Order") by the Court to resolve all charges against Harry Flagg set forth in the
4 Complaint and all matters in dispute between them in this action. Harry Flagg has
5 consented to entry of this Order without trial or adjudication of any issue of law or
6 fact herein and has agreed that entry of this Order in the docket by the Court will
7 constitute notice to him of the terms and conditions of the Order. The parties do not
8 accede or admit to the claims of the other except to the extent set forth in the
9 Findings below. Harry Flagg denies liability for all charges in the Complaint and
10 makes no admission of guilt as to any practice set forth in the Complaint. Plaintiff
11 and Harry Flagg having requested the Court to enter this Order, the Court hereby
12 finds and orders as follows:

13 **FINDINGS**

14 1. This is an action instituted by the Commission under Section 13(b) FTC
15 Act in connection with Defendants' sale and offering for sale of the right to
16 participate in Defendants' multi-level marketing program. The Complaint seeks
17 permanent injunctive and other equitable relief against Defendants.

18 2. This Court has jurisdiction of the subject matter of this case and over
19 Harry Flagg. Venue in the Central District of California is proper.

20 3. The Complaint states a claim upon which relief may be granted against
21 Harry Flagg under Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a) and
22 53(b).

23 4. Plaintiff has the authority under Section 13(b) of the FTC Act, 15
24 U.S.C. § 53(b), to seek the relief it has requested.

25 5. The activities of Harry Flagg charged in the Complaint are in or
26 affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

27
28

1 6. Harry Flagg denies liability for the charges in the Complaint, and there
2 has been no final adjudication of whether the charges in the Complaint are true.

3 7. Harry Flagg has waived all rights to seek judicial review or otherwise
4 challenge or contest the validity of this Order. Harry Flagg has also waived all
5 claims under the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended by PL
6 104-121, 110 Stat. 847, 863-64 (1996).

7 8. Entry of this Order is in the public interest.
8

9 **DEFINITIONS**

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

17 2. "Material fact" means any fact likely to affect a person's choice of, or
18 conduct regarding, goods or services.

19 3. "Consumer" means an actual or potential purchaser, customer,
20 subscriber, or natural person.

21 4. "Multi-Level Marketing Program" means any marketing program in
22 which all of the following elements exist: (1) participants are given the right to sell
23 goods or services; (2) participants are given the right to recruit additional
24 participants into a first-level downline (however denominated), or to have additional
25 participants placed by the promoter or any other person into the program
26 participant's first-level downline; (3) the first-level downline participants in turn
27 have the right to recruit additional participants (second-level downlines), or to have
28

1 additional participants placed into their downlines; and (4) participants may earn
2 compensation based in whole or in part upon the sales or purchases of those in the
3 participant's second-level downline or beyond.

4 5. "Prohibited Marketing Program" means any marketing program or plan
5 in which any participant pays money or valuable consideration to the company in
6 return for which he receives the right to receive rewards, in return for recruiting
7 other participants into the program, which are unrelated to the sale of products or
8 services to persons who are not participants in the marketing program.

9 6. "Business Venture" means any written or oral business arrangement,
10 however denominated, whether or not covered by 16 C.F.R. Part 436, that consists
11 of the payment of any consideration for (i) the right or means to offer, sell, or
12 distribute goods or services (whether or not identified by a trademark, service mark,
13 trade name, advertising or other commercial symbol); and (ii) assistance to any
14 person in connection with or incident to the establishment, maintenance, or
15 operation of a new business, or the entry by an existing business into a new line or
16 type of business.

17
18 **ORDER**

19 I.

20 **IT IS HEREBY ORDERED** that, while Harry Flagg disputes liability and
21 there having been no final adjudication with respect to whether he has participated
22 in any illegal pyramid scheme, Harry Flagg, and his agents, servants, employees, and
23 attorneys, and all persons or entities under his control, and all other persons or
24 entities in active concert or participation with him who receive actual notice of this
25 Order by personal service or otherwise, and each such person, whether acting
26 directly or through any corporation, business entity or person under Harry Flagg's

control, **are hereby prohibited** from engaging or participating in any Prohibited Marketing Program.

II.

Prohibited Representations

IT IS HEREBY ORDERED that, while Harry Flagg disputes liability and there having been no final adjudication with respect to whether he has made any misrepresentations, Harry Flagg, and his agents, servants, employees, and attorneys, and all persons or entities under his control, and all other persons or entities in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, and each such person, whether acting directly or through any corporation, business entity or person under Harry Flagg's control, in connection with the advertising, offering, marketing, promotion or sale of any Multilevel-Marketing Program or Business Venture, **are hereby prohibited** from:

- 1. Falsely representing, expressly or by implication, that:
 - (a) persons who participate in the Program or purchase or acquire the Business Venture are likely to realize substantial financial gain; or
 - (b) salaried or permanent employment opportunities are available; and

2. Falsely representing, expressly or by implication, any other material fact.

III.

Prohibition Against Material Omissions and Lack of Substantiation

IT IS FURTHER ORDERED that, while Harry Flagg disputes liability and there having been no final adjudication with respect to whether he has failed to disclose any material fact or made any unsubstantiated claims, Harry Flagg, whether acting directly or through any corporation, business entity or person under his control, in connection with the advertising, offering, marketing, promotion or sale of

any Multi-Level Marketing Program or Business Venture, is **hereby prohibited** from:

A. Failing to disclose, clearly and conspicuously, before any consumer pays any money in connection with participating in the Program or acquiring a Business Venture, all information material to the decision to participate in the Program or to acquire the Business Venture, including information that is known or should reasonably be known to Harry Flagg regarding actual income and profits of other participants in the Program or acquirers of the Business Venture;

B. Making any representation, expressly or by implication, regarding the amount or level of income that a participant in the Program, or an acquirer of the Business Venture, can reasonably expect to make unless, at the time such representation is made, a reasonable basis exists for such representation and Harry Flagg has in his possession material that constitutes a reasonable basis for such representation, which material is made available to the Commission or its representatives upon reasonable demand.

IV.

Equitable Monetary Relief

A. **IT IS FURTHER ORDERED** that Harry Flagg shall, within ten court days following entry of this Order, pay to the Federal Trade Commission the sum of TWENTY THOUSAND DOLLARS (\$20,000.00) in equitable monetary relief. Time is of the essence. No portion of any payments under this Order shall be deemed a payment of any fine, penalty, or punitive assessment. In the event Harry Flagg fails to pay \$20,000.00 within ten (10) court days following entry of this Order, the amount of Harry Flagg's monetary liability shall be determined in accordance with Section V of this Order below.

B. **IT IS FURTHER ORDERED** that the \$1,200,000.00 that Northfield Insurance Company has agreed to pay pursuant to Directors and Officers and Corporate Liability policy number ER000151 shall be distributed in accordance with

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1 the Agreement appended hereto as Appendix 1. The \$600,000.00 payment directed
2 to counsel for the Individual Defendants may be used only to pay outstanding
3 attorneys fees and expenses that counsel for the Individual Defendants have accrued
4 in FTC v. Trek Alliance, Inc. None of this amount may be returned or passed
5 through to any of the Individual Defendants.

6 C. **IT IS FURTHER ORDERED** that all funds paid to or received by the
7 Commission pursuant to this Section shall be deposited into a fund administered by
8 the Commission or its agent. Funds paid to or received by the Commission pursuant
9 to this Section shall be used first to pay to the Receiver and Special Master, Robb
10 Evans, all of the Receiver's and Special Master's reasonable fees, expenses and
11 liabilities that have been or will be incurred in this action and which cannot be paid
12 out of the receivership estate, and second, after the Receiver and Special Master has
13 been discharged, and all reasonable fees, expenses and liabilities have been paid, for
14 equitable relief, including but not limited to consumer redress and any attendant
15 expenses for the administration of any redress fund. In the event that direct redress
16 to consumers is wholly or partially impracticable or funds remain after redress is
17 completed, the Commission may apply any remaining funds for such other equitable
18 relief (including consumer information remedies) as it determines to be reasonably
19 related to Defendants' practices alleged in the Complaint. Any funds not used as
20 described above shall be deposited to the Treasury as disgorgement. Defendants
21 shall have no right to challenge the Commission's choice of remedies under this
22 Section, or to contest the manner of distribution chosen by the Commission.

23 V.

24 **Right to Reopen**

25 **IT IS FURTHER ORDERED** that the Commission's agreement to this Order
26 is expressly premised upon (a) the truthfulness, accuracy and completeness of the
27 "Financial Statement of Individual Defendant" of Harry Flagg, dated December 13,
28 2002, as well as documents submitted therewith, and a supplemental "Financial

1 Statement of Individual Defendant," dated March 15, 2005, as well as documents
2 submitted therewith, that Harry Flagg has submitted to the Commission, and (b)
3 timely payment pursuant to Section IV of this Order. Said financial statements and
4 documents contain material information upon which the FTC has relied in
5 negotiating and agreeing to the terms of this Order. If, upon motion by the
6 Commission to the Court, the Court finds that Harry Flagg (a) failed to disclose any
7 material asset, or materially misrepresented the value of any asset, or made any other
8 material misrepresentation in or omission from their financial statement, or (b) failed
9 to make timely payment to the FTC pursuant to Section IV of this Order above, then
10 judgment in the amount of FIVE HUNDRED FORTY-FOUR THOUSAND
11 DOLLARS (\$544,000.00) shall be entered and will become immediately due and
12 payable, less any payments already made. In addition to modifying Harry Flagg's
13 monetary liability pursuant to Section IV of this Order, the Court may order Harry
14 Flagg to turn over any asset that he has misrepresented or failed to disclose, or its
15 exact liquid value, to the Commission. *Provided, however,* that in all other respects
16 this judgment shall remain in full force and effect, unless otherwise ordered by the
17 Court. Modification of Harry Flagg's monetary liability as provided herein shall be
18 in addition to, and not in lieu of, any other remedies that may lie for any
19 misrepresentation in or omission from the Defendant's financial statements. While
20 Harry Flagg does not admit any of the charges in the FTC's Complaint, he
21 nonetheless waives the right to contest those charges in any proceedings to enforce
22 payment or in response to any motion brought under this Section, including without
23 limitation in any response to a nondischargeability complaint filed in a bankruptcy
24 proceeding.

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VI.

Acknowledgment of Receipt

IT IS FURTHER ORDERED that Harry Flagg, within five (5) business days of receipt of this Order as entered by the Court, must submit to the Commission a truthful sworn and notarized statement acknowledging receipt of this Order.

VII.

Dissolution of Asset Freeze

IT IS FURTHER ORDERED that the freeze of Harry Flagg's assets pursuant to Sections IV and VII of the Preliminary Injunction was dissolved by previous order of the Court.

VIII.

Record Keeping

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Order, Harry Flagg, in connection with any company or business which advertises, offers, markets, promotes or sells any Multi-Level Marketing Program or Business Ventures, where the Harry Flagg is the majority owner or otherwise controls the business (whether directly or through any corporation, business entity or person), is hereby restrained and enjoined from failing to create and retain the following records:

- A. Accounting records that reflect (i) the cost of goods or services sold, (ii) revenues generated, and (iii) the disbursement of such revenues;
- B. Personnel records accurately reflecting (i) the name, address, and telephone number of each person employed in any capacity by such business, including as an independent contractor; (ii) that person's job title or position; (iii) the date upon which the person commenced work; and (iv) 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

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1 services purchased, to the extent such information is obtained in the ordinary course
2 of business;

3 D. Computer records containing the name, address, and phone number of
4 each participant in the Program or acquirer of the Business Venture (however
5 denominated, including without limitation sales representatives, distributors, or
6 independent business owners), as well as (i) dollar amounts paid by the acquirer to
7 the business or any affiliate for any purpose, and the date of each payment, and
8 (ii) all commissions or other pecuniary benefit paid to the acquirer, and the date of
9 each payment;

10 E. Complaints and refund requests (whether received directly, indirectly or
11 through any third party) and any responses to those complaints or requests;

12 F. Copies of all sales scripts, training materials, advertisements, and other
13 marketing materials; and

14 G. All records and documents necessary to demonstrate full compliance
15 with each provision of this Order, including but not limited to copies of
16 acknowledgments of receipt of this Order (required by Section XI below), and all
17 reports submitted to the FTC pursuant to Section X below.

18 IX.

19 **Compliance Monitoring**

20 **IT IS FURTHER ORDERED** that, for the purpose of monitoring and
21 investigating compliance with any provision of this Order,

22 A. The Commission may apply to the Court for an order, and the Court
23 may issue an order, for good cause shown, on an *ex parte* basis without prior notice
24 to the Defendant, directing that Harry Flagg shall submit additional written reports,
25 sworn to under penalty of perjury; produce documents for inspection and copying;
26 appear for deposition; and/or provide entry during normal business hours to any
27 business location in the Defendant's possession or direct or indirect control to
28 inspect the business operation. *Provided that* Harry Flagg may, after attempting in

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1 good faith to resolve with the Commission any dispute arising from such order, file
2 a motion with this Court seeking a protective order under Fed. R. Civ. P. 26(c).

3 B. In addition, the Commission and its representatives are authorized to
4 monitor compliance with this Order by all other lawful means, including but not
5 limited to the following:

- 6 1. obtaining discovery from any person other than Harry Flagg,
7 without further leave of court, using the procedures prescribed by
8 Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45; and
- 9 2. communicating with any entity controlled in whole or in part by
10 Harry Flagg, or any of his employees, while posing as consumers
11 or prospective customers or suppliers, without the necessity of
12 identification or prior notice;

13 C. The Defendant shall not attempt to impose any restrictions, beyond
14 those imposed by law in the relevant jurisdiction, on the Commission's ability to
15 interview any employer, consultant, independent contractor, representative, agent, or
16 employee who has agreed to such an interview, relating in any way to any conduct
17 subject to this Order. In any such interview, the person interviewed may have
18 counsel present. This provision shall not be construed as a waiver by the Defendant
19 of any privilege or right, or as a grant of permission by the Defendant or the Court to
20 any person to disclose information or documents that could not be disclosed in the
21 absence of this provision.

22 *Provided, however,* that nothing in this Order shall limit the Commission's
23 lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15
24 U.S.C. §§ 49, 57b-1, to obtain any documentary material, tangible things, testimony,
25 or information relevant to unfair or deceptive acts or practices in or affecting
26 commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

X.

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 one (1) year from the date of entry of this Order,
 - 1. Harry Flagg shall notify the Commission of the following:
 - a. any changes in the Defendant's residence, mailing addresses, and telephone numbers, within thirty (30) days of the date of such change;
 - b. any changes in the Defendant's employment status (including self-employment), and any change in the Defendant's ownership in any business entity, to the extent such change involves a business that is engaged in the advertising, offering, marketing, promotion or sale of any Multi-Level Marketing Program or Business Ventures, within thirty (30) days of the date of such change. Such notice shall include the name and address of each business that the Defendant is affiliated with, employed by, creates or forms, or performs services for; a statement of the nature of the business; and a statement of the Defendant's duties and responsibilities in connection with the business; and
 - c. any changes in the Defendant's name or use of any aliases or fictitious names;
 - 2. Harry Flagg shall notify the Commission of any changes in any business entity that he controls, whether directly or through any corporation, business entity or person, or has an ownership interest in, and which is engaged in the advertising, offering,

1 marketing, promotion or sale of any Multi-Level Marketing
2 Program or Business Ventures, including but not limited to a
3 dissolution, assignment, sale, merger, or other action that would
4 result in the emergence of a successor entity; the creation or
5 dissolution of a subsidiary, parent, or affiliate that engages in the
6 advertising, offering, marketing, promotion or sale of any Multi-
7 Level Marketing Program or Business Ventures; the filing of a
8 bankruptcy petition; or a change in the corporate name or
9 address, at least thirty (30) days prior to such change, *provided*
10 that, with respect to any proposed change in the business entity
11 about which the Defendant learns less than thirty (30) days prior
12 to the date such action is to take place, Defendant shall notify the
13 Commission as soon as is practicable after obtaining such
14 knowledge.

15 B. One hundred eighty (180) days after the date of entry of this Order,
16 Harry Flagg shall provide a written report to the FTC, sworn to under penalty of
17 perjury, setting forth in detail the manner and form in which the Defendant has
18 complied and is complying with each section of this Order. This report shall
19 include, but not be limited to:

- 20 1. The Defendant's then-current residence address, mailing
21 addresses, and telephone numbers;
- 22 2. The Defendant's then-current employment and business addresses
23 and telephone numbers, a description of the business activities of
24 each such employer or business, and the title and responsibilities
25 of the Defendant, for each such employer or business;
- 26 3. Any other changes required to be reported under Paragraph A of
27 this Section; and
28

4. A copy of each acknowledgment of receipt of this Order obtained by Defendant pursuant to Section XI of this Order;

Provided that, if Harry Flagg has failed to submit such a report by the deadline, the FTC will so advise Mr. Flagg and allow him ten calendar days in which to submit the required report before the FTC seeks any intervention from the Court.

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

Federal Trade Commission
Attn: Assistant Regional Director
10877 Wilshire Blvd., Suite 700
Los Angeles, CA 90024
Re: FTC v. Trek Alliance, Inc., CV-02-9270 (C.D. Cal.)

D. For purposes of the compliance reporting required by this Section, unless otherwise instructed by Harry Flagg's undersigned attorney, Michael Wachtell, or instructed by the Defendant through any other attorney, Plaintiff shall (1) direct all oral communications to Mr. Wachtell, and (2) direct all written communications to Harry Flagg, with copies of such written communications to be sent to Mr. Wachtell and to D.J. Poyfair.

XI.

Order Distribution by Defendant

IT IS FURTHER ORDERED that, for a period of three (3) years from the date of entry of this Order, Harry Flagg shall deliver copies of this Order as directed below:

A. For any business that Harry Flagg controls (whether directly or through any corporation, business entity or person under his control), or in which he has a majority ownership interest, and which is engaged in the advertising, offering, marketing, promotion or sale of any Multi-Level Marketing Program or Business Ventures, Harry Flagg shall deliver a copy of this Order to (1) all principals,

SCANNED

1 officers, directors and managers of that business, and (2) all employees, agents, and
2 representatives of that business who participate in the advertising, offering,
3 marketing, promotion or sale of any Multi-Level Marketing Program or Business
4 Ventures. For current personnel, delivery shall be within (5) days of service of this
5 Order upon Harry Flagg. For new personnel, delivery shall occur prior to their
6 assumption of responsibilities.

7 B. With respect to any business (a) for which Harry Flagg engages in the
8 advertising, offering, marketing, promotion or sale of any Multi-Level Marketing
9 Program or Business Ventures, directly or through any other person or business
10 entity, and (b) which he does not own or control, Harry Flagg shall deliver a copy of
11 this Order to all principals and managers of such business before engaging in such
12 conduct.

13 C. Harry Flagg shall secure a signed and dated statement acknowledging
14 receipt of the Order, within thirty (30) days of delivery, from all persons receiving a
15 copy of the Order pursuant to this Section. Harry Flagg shall retain all
16 acknowledgments and make them available to the Commission upon request.

17 XII.

18 **Independence of Obligations**

19 **IT IS FURTHER ORDERED** that each of the obligations imposed by this
20 Order is independent of all other obligations under the Order, and that the expiration
21 of any requirements imposed by this Order shall not affect any other obligation
22 arising under this Order.

23 XIII.

24 **Costs and Attorneys Fees**

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

27 ///

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XIV.

Waiver of Claims

IT IS FURTHER ORDERED that Harry Flagg waives and releases any and all claims he may have against the Plaintiff, its employees, representatives, attorneys and agents for any acts or omissions prior to and up to the date of this Order. He further waives and releases any and all claims he may have against the Receiver and his employees, representatives, attorneys and agents for any acts or omissions prior to and up to the date of this Order.

XV.

Other Settlements

IT IS FURTHER ORDERED that Harry Flagg hereby waives any right to contest or object to entry of any stipulated final order against any of the Corporate Defendants that may be presented to the Court for approval.

XVI.

Continued Jurisdiction

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

///

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XVII.

Entry by Clerk

There being no just reason for delay, the Clerk of the Court is hereby directed to enter this Order.

SO STIPULATED:

PLAINTIFF:
FEDERAL TRADE COMMISSION

Dated: December 6, 2005

John D. Jacoby
John D. Jacoby
Jennifer M. Brennan
Barbara Y.K. Chun
David C. Fix
Attorneys for Plaintiff FTC

DEFENDANT:

Dated: 10/2, 2005

Harry Flagg
Harry Flagg

APPROVED AS TO FORM AND CONTENT.

Dated: 10/3, 2005

Michael L. Wachtell
Michael L. Wachtell
Attorney for Defendant Harry Flagg

IT IS SO ORDERED.

Dated: 12-17-05

Dale S. Fischer
Dale S. Fischer
United States District Judge

Agreement between Plaintiff, Defendants, and Northfield Insurance Company

SCANNED

Whereas Northfield Insurance Company (Northfield) issued Corporate Directors and Officers and Corporate Liability policy number ER000151 (Policy), with a policy limit of \$3,000,000.00, to Defendants Trek Alliance, Inc., Trek Education Corp., VonFlagg Corp., for the policy period of March 21, 2002 through March 21, 2003;

Whereas on December 6, 2002, Plaintiff Federal Trade Commission (Plaintiff or Commission) filed a lawsuit against Defendants Trek Alliance, Inc., Trek Education Corp., VonFlagg Corp., Jeffrey Kale Flagg, Richard Von Alvensleben, Tiffani Von Alvensleben, and Harry Flagg;

Whereas Plaintiff's Complaint alleges that, between 1997 and 2002, the Defendants engaged in deceptive conduct in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45(a);

Whereas Defendants and Plaintiff have claimed that the Policy covers some or all of the acts and omissions that form the basis of Plaintiff's Complaint;

Whereas Defendants and counsel for Plaintiff have tentatively stipulated to entry of final orders (Orders) that would settle Plaintiff's claims against Defendants, which must be approved by the Commission and the Court before they become final;

Therefore, Plaintiff, the Defendants, and Northfield agree as follows:

1. If the Orders are approved by the Commission and the Court, Northfield agrees to pay a total of \$1,200,000.00, within five court days after entry of the Orders, as follows:
 - a. Northfield shall pay \$600,000.00 to the Commission.
 - b. Northfield shall pay \$600,000.00 to counsel for the Individual Defendants,

as follows: \$500,000.00 shall be paid to the law firm of Shughart Thomson & Kilroy, P.C.; \$50,000.00 shall be paid to the law firm of Buchalter Nemer; and \$50,000.00 shall be paid to the law firm of Grimes & Reese, P.L.L.C. These payments may be used only to pay for outstanding attorneys fees and expenses that counsel for the Individual Defendants have accrued in FTC v. Trek Alliance, Inc. None of the \$600,000.00 may be returned or passed through to any of the Individual Defendants.

2. The Commission will deposit funds received pursuant to this Agreement into a fund administered by the Commission or its agent. Such funds shall be used for equitable relief in FTC v. Trek Alliance, Inc., 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 Defendants' practices alleged in the complaint. Any funds not used as described above shall be deposited to the Treasury as disgorgement. Neither the Defendants nor Northfield shall have any right to challenge the Commission's choice of remedies under this Section, or to contest the manner of distribution chosen by the Commission.

3. As consideration for payment of \$600,000.00 to the Commission, the Commission hereby forever waives and releases any and all claims against Northfield under the Policy or any other claims based on the facts alleged in the Complaint.

///

4. Defendants agree to release Northland from all claims under the Policy in accordance with Attachment A hereto.

SCANNED

AGREED BY:



Jeffrey Kale Flagg

Richard Von Alvensleben

Tiffani Von Alvensleben

Harry Flagg

TREK ALLIANCE, INC.

By Kenton Johnson, Deputy Receiver, on behalf of Robb Evans, Receiver of Trek Alliance, Inc.

TREK EDUCATION CORP.

By Kenton Johnson, Deputy Receiver, on behalf of Robb Evans, Receiver of Trek Education Corp.

VONFLAGG CORP.

By Kenton Johnson, Deputy Receiver, on behalf of Robb Evans, Receiver of VonFlagg Corp.

PLAINTIFF
FEDERAL TRADE COMMISSION:

By:
John D. Jacobs
Attorney for Plaintiff FTC

NORTHFIELD INSURANCE COMPANY

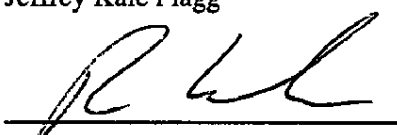
By:
Its

4. Defendants agree to release Northland from all claims under the Policy in accordance with Attachment A hereto.

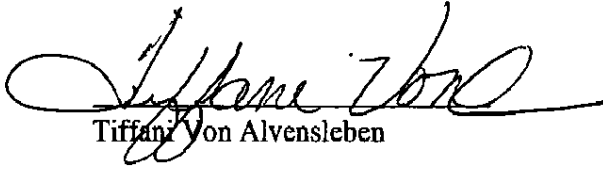
SCANNED

AGREED BY:

Jeffrey Kale Flagg



Richard Von Alvensleben



Tiffany Von Alvensleben

Harry Flagg

TREK ALLIANCE, INC.

By Kenton Johnson, Deputy Receiver, on
behalf of Robb Evans, Receiver of Trek
Alliance, Inc.

TREK EDUCATION CORP.

By Kenton Johnson, Deputy Receiver, on
behalf of Robb Evans, Receiver of Trek
Education Corp.

VONFLAGG CORP.

By Kenton Johnson, Deputy Receiver, on
behalf of Robb Evans, Receiver of
VonFlagg Corp.

PLAINTIFF
FEDERAL TRADE COMMISSION:

By:
John D. Jacobs
Attorney for Plaintiff FTC

NORTHFIELD INSURANCE COMPANY

By:
Its

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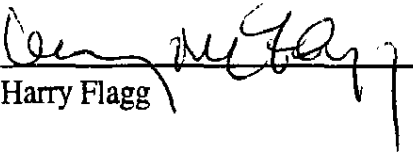
SCANNED

AGREED BY:

Jeffrey Kale Flagg

Richard Von Alvensleben

Tiffani Von Alvensleben



Harry Flagg

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PLAINTIFF
FEDERAL TRADE COMMISSION:

By:
John D. Jacobs
Attorney for Plaintiff FTC

NORTHFIELD INSURANCE COMPANY

By:
Its

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Jeffrey Kale Flagg

Richard Von Alvensleben

Tiffani Von Alvensleben

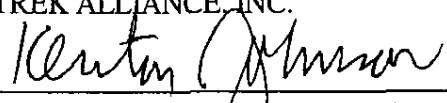
Harry Flagg

PLAINTIFF
FEDERAL TRADE COMMISSION:

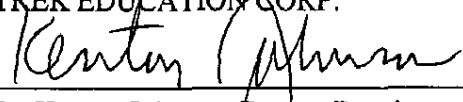
By:
John D. Jacobs
Attorney for Plaintiff FTC

NORTHFIELD INSURANCE COMPANY

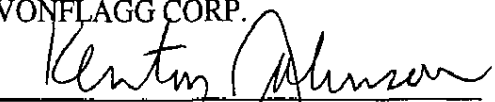
By:
Its

TREK ALLIANCE, INC.


By Kenton Johnson, Deputy Receiver, on behalf of Robb Evans, Receiver of Trek Alliance, Inc.

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VONFLAGG CORP.


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SCANNED

4. Defendants agree to release Northland from all claims under the Policy in accordance with Attachment A hereto.

AGREED BY:

Jeffrey Kale Flagg

Richard Von Alvensleben

Tiffani Von Alvensleben

Harry Flagg

PLAINTIFF
FEDERAL TRADE COMMISSION:

By:
John D. Jacobs
Attorney for Plaintiff FTC

Lee Laurson
NORTHFIELD INSURANCE COMPANY

Lee Laurson

By: *Director Major Case Liability*
Its

TREK ALLIANCE, INC.

By Kenton Johnson, Deputy Receiver, on behalf of Robb Evans, Receiver of Trek Alliance, Inc.

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VONFLAGG CORP.

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4. Defendants agree to release Northland from all claims under the Policy in accordance with Attachment A hereto.

SCANNED

AGREED BY:

Jeffrey Kale Flagg

Richard Von Alvensleben

Tiffani Von Alvensleben

Harry Flagg

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By Kenton Johnson, Deputy Receiver, on behalf of Robb Evans, Receiver of Trek Alliance, Inc.

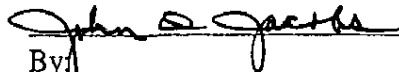
TREK EDUCATION CORP.

By Kenton Johnson, Deputy Receiver, on behalf of Robb Evans, Receiver of Trek Education Corp.

VONFLAGG CORP.

By Kenton Johnson, Deputy Receiver, on behalf of Robb Evans, Receiver of VonFlagg Corp.

PLAINTIFF
FEDERAL TRADE COMMISSION:



By
John D. Jacobs
Attorney for Plaintiff FTC

NORTHFIELD INSURANCE COMPANY

By:
Its

GENERAL RELEASE AGREEMENT

SCANNED

This General Release Agreement (the "Agreement") is entered into between TREK ALLIANCE, INC., TREK EDUCATION CORPORATION, VONFLAGG CORPORATION, JEFFREY KALE FLAGG, RICHARD VON ALVENSLEBEN, TIFFANI VON ALVENSLEBEN and HARRY M. FLAGG (collectively the "TREK PARTIES"), on the one hand, and NORTHFIELD INSURANCE COMPANY ("NORTHFIELD") and all of its subsidiary, parent and affiliate corporations, on the other hand, and is made with reference to the following facts:

RECITALS

1. NORTHFIELD issued in favor of TREK ALLIANCE, INC., TREK EDUCATION CORPORATION and VONFLAGG CORPORATION its Private Company Directors and Officers and Corporate Liability (including Employment Practices Liability) Insurance Policy, Policy No. ER000151, covering the period from March 21, 2002, through March 21, 2003 (the "Policy").
2. On December 6, 2002, the FTC filed a complaint for injunctive relief and other equitable relief against the TREK PARTIES in the case styled *FTC v. Trek Alliance, Inc.; et al.*, United States District Court, Central District of California, Case No. CV-02-9270 (the "FTC Action").
3. Thereafter, certain of the TREK PARTIES requested reimbursement from NORTHFIELD under the Policy for the cost of their defense in the FTC Action (the "Trek Claim").
4. Thereafter, on June 24, 2003, the court in the FTC Action issued a Preliminary Injunction and appointed Robb Evans as permanent receiver for TREK ALLIANCE, INC., TREK EDUCATION CORPORATION and VONFLAGG CORPORATION.
5. On October 30, 2003, NORTHFIELD denied all liability under the Policy.
6. From time to time thereafter, and on December 22, 2003, the FTC demanded to NORTHFIELD that it pay to the FTC sums of money under the Policy (the "FTC Claim").

7. NORTHFIELD, on the one hand, and the TREK PARTIES on the other, are willing to settle all claims among them relating to amounts claimed owed under the Policy by the FTC or in any way arising from or pertaining to the FTC Action and/or the FTC Claim.

8. This agreement is prepared concurrently with a recommendation by FTC staff that the FTC approve settlements ("Proposed Settlements") of the FTC Action with the various TREK PARTIES, in which the FTC, *inter alia*, releases NORTHFIELD. This agreement is contingent upon the FTC's approval, and the court's approval, of the Proposed Settlements with the TREK PARTIES. This agreement is intended to be attached to each of the Proposed Settlements. This agreement shall take effect, and shall only take effect, upon the court's approval of the Proposed Settlements.

GENERAL RELEASE

NOW, THEREFORE, with reference to the foregoing facts and in consideration of the promises, covenants, and agreements set forth herein, the parties hereto agree as follows:

A. In consideration of the releases set forth herein, and contingent upon the court's approval of the Proposed Settlements, NORTHFIELD will pay the sum of \$1,200,000.00 to be allocated between the TREK PARTIES and the FTC pursuant to the terms of the Proposed Settlements between the FTC and the TREK PARTIES referenced above.

B. In exchange for said payment, and upon the court's approval of the Proposed Settlements, the TREK PARTIES for themselves and their successors, assigns, stockholders, insurers, parent, subsidiaries and affiliated companies, and any other person making claim under the Policy, hereby release, acquit and forever discharge NORTHFIELD, including, but not limited to, its subsidiary corporations, parent corporations, affiliate corporations, successors, assigns, agents, attorneys, stockholders, insurers, officers, directors, employees, or other representatives and their respective successors, assigns, agents, and attorneys, and the employees of any of them, from the FTC Action, the Trek Claim and the FTC Claim, and any and all known or unknown claims, damages, punitive damages, claims practices liability, costs, liabilities or causes of action arising therefrom, including by way of example and not of limitation all costs, fees, attorneys' fees (including "defense costs" as the term is used in the Policy), settlement payments regardless of form, and disbursements expended by or on behalf of the releasing party,

or any of them, and any and all matters related to the handling of the FTC Action, the Trek Claim and/or the FTC Claim.

C. NORTHFIELD, for itself and its successors, assigns, stockholders, insurers, parent, subsidiaries and affiliated companies, upon the court's approval of the Proposed Settlements, hereby releases, acquits and forever discharges TREK ALLIANCE, INC., TREK EDUCATION CORPORATION and VONFLAGG CORPORATION, including, but not limited to, their subsidiary corporations, parent corporations, affiliate corporations, successors, assigns, attorneys, insurers and their respective successors, assigns, and attorneys from the FTC Action, the Trek Claim and the FTC Claim, and any and all known or unknown claims, damages, punitive damages, costs, liabilities or causes of action arising therefrom and any and all matters related to the FTC Action, the Trek Claim and/or the FTC Claim.

D. The TREK PARTIES represent and warrant that the Trek Claim constitutes the entirety of the claims they have made, intend to make, and can make on the Policy as a result of the FTC Action.

E. TREK ALLIANCE, INC., TREK EDUCATION CORPORATION and VONFLAGG CORPORATION represent and warrant that they are authorized to act through the receiver Robb Evans, appointed pursuant to the Court's June 24, 2003 order referenced above.

F. All parties acknowledge that they are familiar with the provisions of California Civil Code Section 1542 which states:

"A general release does not extend to claims which a creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him, must have materially affected his settlement with the debtor."

To the extent California Civil Code Section 1542 is applicable to this Agreement, it, as well as the provisions of all comparable, equivalent or similar statutes or principles of common law, are voluntarily and expressly waived by all parties as to the Trek Claim, the FTC Claim and the FTC Action.

G. The TREK PARTIES and NORTHFIELD represent that no matter, claim or right released or to be released herein by them has previously been assigned.

H. This Agreement involves the release of claims which are contested by the parties, and neither any agreement, term nor provision contained herein shall be construed as an admission of liability by any party to this Agreement.

I. This Agreement constitutes the entire agreement and understanding of NORTHFIELD, on the other hand, and the TREK PARTIES, on the other hand, concerning the matters herein and supersedes and replaces all negotiations, and all proposed agreements, whether oral or written, concerning the subject matter of this Agreement. It is therefore agreed that all prior communications between NORTHFIELD, the TREK PARTIES and the FTC relating to or leading to this Agreement are finalized and memorialized herein.

J. Each individual signing this Agreement hereby represents and warrants that he is authorized and has capacity to do so, and represents and warrants that the Agreement memorialized herein has been submitted to and approved by the appropriate officers and/or governing body of his respective principal and that this Agreement has been reviewed with and agreed to following consultation with independent legal counsel.

K. This Agreement and any controversy arising therefrom shall in all respects be interpreted, enforced and governed by the laws of the State of California. This Agreement shall be construed as a whole according to its plain and fair meaning, and is not to be strictly construed for or against any of the parties hereto. This Agreement may be signed by counterparts.

L. None of the parties hereto has relied upon any representation, warranty or assurance other than as expressly set forth herein. The recitals and representations and warranties are part of this Agreement and shall survive the execution of this Agreement.

SCANNED

DATED: _____, 2005

TREK ALLIANCE, INC.

By: Robb Evans, Receiver of
Trek Alliance, Inc.

DATED: _____, 2005

TREK EDUCATION CORPORATION

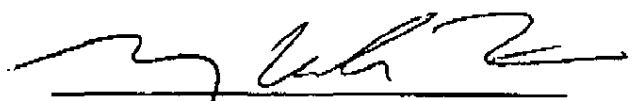
By: Robb Evans, Receiver of
Trek Education Corp.

DATED: _____, 2005

VONFLAGG CORPORATION

By: Robb Evans, Receiver of
Von Flagg Corp.

DATED: 9/19, 2005



By: Jeffrey Kale Flagg

DATED: _____, 2005

By: Richard Von Alvensleben

DATED: _____, 2005

By: Tiffani Von Alvensleben

DATED: _____, 2005

By: Harry M. Flagg

[Signatures continued on next page]

DATED: _____, 2005

TREK ALLIANCE, INC.

By: Robb Evans, Receiver of
Trek Alliance, Inc.

SCANNED

DATED: _____, 2005

TREK EDUCATION CORPORATION

By: Robb Evans, Receiver of
Trek Education Corp.

DATED: _____, 2005

VONFLAGG CORPORATION

By: Robb Evans, Receiver of
Von Flagg Corp.

DATED: _____, 2005

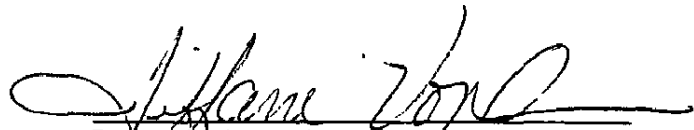
By: **Jeffrey Kale Flagg**

DATED: 10-6, 2005



By: **Richard Von Alvensleben**

DATED: 10-6, 2005



By: **Tiffani Von Alvensleben**

DATED: _____, 2005

By: **Harry M. Flagg**

[Signatures continued on next page]

SCANNED

DATED: _____, 2005

TREK ALLIANCE, INC.

By: Robb Evans, Receiver of
Trek Alliance, Inc.

DATED: _____, 2005

TREK EDUCATION CORPORATION

By: Robb Evans, Receiver of
Trek Education Corp.

DATED: _____, 2005

VONFLAGG CORPORATION

By: Robb Evans, Receiver of
Von Flagg Corp.

DATED: _____, 2005

By: Jeffrey Kale Flagg

DATED: _____, 2005

By: Richard Von Alvensleben

DATED: _____, 2005

By: Tiffani Von Alvensleben

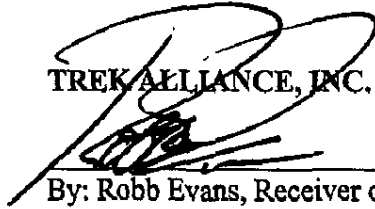
DATED: 10/12, 2005


By: Harry M. Flagg

[Signatures continued on next page]

DATED: Sept. 21st, 2005

TREK ALLIANCE, INC.

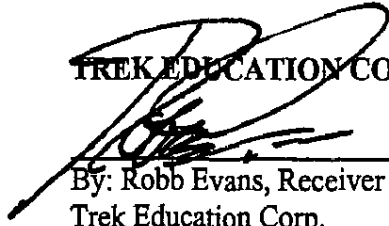


By: Robb Evans, Receiver of
Trek Alliance, Inc.

SCANNED

DATED: Sept. 21st, 2005

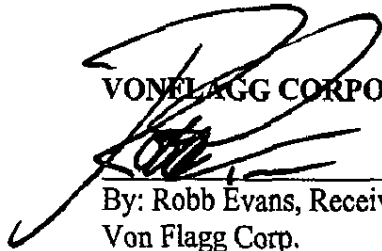
TREK EDUCATION CORPORATION



By: Robb Evans, Receiver of
Trek Education Corp.

DATED: Sept. 21st, 2005

VONFLAGG CORPORATION



By: Robb Evans, Receiver of
Von Flagg Corp.

DATED: _____, 2005

By: **Jeffrey Kale Flagg**

DATED: _____, 2005

By: **Richard Von Alvensleben**

DATED: _____, 2005

By: **Tiffani Von Alvensleben**

DATED: _____, 2005

By: **Harry M. Flagg**

[Signatures continued on next page]

DATED: _____, 2005


**NORTHFIELD INSURANCE
COMPANY**

SCANNED

By: _____
Its:

APPROVED BY COUNSEL AS TO FORM:

Shugart, Thomson & Kilroy

By: 
D. J. Poyfair
Attorneys for **Jeffrey Kale Flagg,**
Richard Von Alvensleben, and
Tiffani Von Alvensleben

Buchalter Nemer

By: _____
Michael L. Wachtell
Attorneys for **Harry M. Flagg**

Frاندzel Robins Bloom & Csato, L.C.

By: _____
Gary O. Caris
Attorneys for Receiver **Robb Evans**

Anderson, McPharlin & Conners LLP

By: _____
David T. DiBiase
Attorneys for **Northfield Insurance Company**

DATED: _____, 2005

**NORTHFIELD INSURANCE
COMPANY**

SCANNED

By: _____
Its:

APPROVED BY COUNSEL AS TO FORM:

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D. J. Poyfair
Attorneys for Jeffrey Kale Flagg,
Richard Von Alvensleben, and
Tiffani Von Alvensleben

Buchalter Nemer

By: _____

Michael L. Wachtell
Attorneys for Harry M. Flagg

Frاندzel Robins Bloom & Csato, L.C.

By: _____

Gary O. Caris
Attorneys for Robb Evans, Receiver of Trek
Alliance, Inc., Trek Education Corp. and
VonFlagg Corp.

Anderson, McPharlin & Connors LLP

By: _____

David T. DiBiase
Attorneys for Northfield Insurance Company

DATED: _____, 2005

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Tiffani Von Alvensleben

Buchalter Nemer

By: _____
Michael L. Wachtell
Attorneys for Harry M. Flagg

Frاندzel Robins Bloom & Csato, L.C.

By: *Gary O. Caris*
Gary O. Caris
Attorneys for Robb Evans, Receiver of Trek
Alliance, Inc., Trek Education Corp. and
VonFlagg Corp.

Anderson, McPharlin & Conners LLP

By: _____
David T. DiBiase
Attorneys for Northfield Insurance Company

Lee E. Hansen

DATED: October 21, 2005

NORTHFIELD INSURANCE
COMPANY

Lee E. Hansen

By: _____
Its: Director Major Case Liability

SCANNED

APPROVED BY COUNSEL AS TO FORM:

Shugart, Thomson & Kilroy

By: _____
D. J. Poyfair
Attorneys for Jeffrey Kale Flagg,
Richard Von Alvensleben, and
Tiffani Von Alvensleben

Buchalter Nemer

By: _____
Michael L. Wachtell
Attorneys for Harry M. Flagg

Frاندzel Robins Bloom & Csato, L.C.

By: _____
Gary O. Caris
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Alliance, Inc., Trek Education Corp. and
VonFlagg Corp.

Anderson, McPharlin & Conners LLP

By: _____
David T. DiBiase
Attorneys for Northfield Insurance Company

DATED: _____, 2005

**NORTHFIELD INSURANCE
COMPANY**

SCANNED

By:
Its:

APPROVED BY COUNSEL AS TO FORM:

Shugart, Thomson & Kilroy

By: _____
D. J. Poyfair
Attorneys for **Jeffrey Kale Flagg,**
Richard Von Alvensleben, and
Tiffani Von Alvensleben

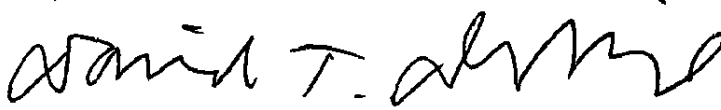
Buchalter Nemer

By: _____
Michael L. Wachtell
Attorneys for **Harry M. Flagg**

Frاندzel Robins Bloom & Csato, L.C.

By: _____
Gary O. Caris
Attorneys for **Robb Evans, Receiver of Trek
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Anderson, McPharlin & Conners LLP

By: 

David T. DiBiase
Attorneys for **Northfield Insurance Company**