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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

TECNOZONE INTERNATIONAL, LLC,
a limited liability company,

TECNOZONE AMERICA, LLC,
a limited liability company,

MARVIN JEMAL, STEPHEN JEMAL, and
JACOB DRESDNER, individually and as officers
or members of the limited liability companies.

Defendants.

Civil Number

**STIPULATED FINAL ORDER
FOR PERMANENT
INJUNCTION**

Plaintiff, the Federal Trade Commission (the "Commission"), filed a complaint for a permanent injunction and other equitable relief against TecnoZone International, LLC,

TecnoZone America LLC (collectively “TecnoZone”), and Marvin Jemal, Stephen Jemal, and Jacob Dresdner, individually and as officers and members of TecnoZone, pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), alleging violations of Sections 5 and 12 of the FTC Act, 15 U.S.C. §§ 45 and 52.

The Commission and Defendants have agreed to the entry of this Stipulated Final Order for Permanent Injunction (“Order”) and have requested that the Court enter the same to resolve all matters of dispute between them in this action without trial or adjudication of any issue of law or fact herein.

NOW, THEREFORE, the Commission and Defendants having requested this Court to enter this Order, **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** as follows:

FINDINGS

1. This Court has jurisdiction of the subject matter of this action and of the Defendants. Venue in the Southern District of New York is proper.
2. The Complaint states a claim upon which relief can be granted, and the Commission has authority to seek the relief it has requested under Sections 5, 12 and 13(b) of the FTC Act, 15 U.S.C. §§ 45, 52, and 53(b).
3. The acts and practices of the Defendants were or are in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
4. Defendants waive all rights to seek judicial review of, or otherwise challenge or contest the validity of this Order. Defendants also waive any claim that they may have held under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action to the date of this Order.

5. This action and the relief awarded herein are in addition to, and not in lieu of, other remedies as may be provided by law.

6. Each party shall bear its own costs and attorneys' fees.

7. Defendants, without admitting or denying the allegations of wrongdoing set forth in the Commission's Complaint, stipulate and agree to entry of this Order under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b).

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

DEFINITIONS

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

1. "Competent and reliable scientific evidence" shall mean tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

2. "Covered product" shall mean TecnoZone's "Tecno AO" for cell phones and Tecno AO for video display units and any other device or product designed or intended to reduce exposure to, prevent absorption of, mitigate the effects of, or prevent penetration of electromagnetic energy or other fields from any cellular telephone or cordless telephone, microwave oven, computer monitor, television, or any other product, device, equipment, or appliance.

3. The term "device" shall mean device as defined in Section 15(d) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 55(d).

4. Defendants shall mean TecnoZone, Marvin Jemal, Stephen Jemal, and Jacob

Dresdner.

CONDUCT PROHIBITIONS

I.

IT IS HEREBY ORDERED that Defendants, and their agents, servants, employees, attorneys, corporations, subsidiaries, successors, assigns, and all other persons or entities in active concert or participation with any of the Defendants who receive actual notice of this Order by personal service, facsimile, or otherwise, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of a covered product in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, about the ability of such product to reduce exposure to, prevent absorption of, mitigate the effects of, or prevent penetration of electromagnetic energy or other fields in humans from any cellular telephone or cordless telephone, microwave oven, computer monitor, television, or any other product, device, equipment, or appliance, unless the representation is true and, at the time it is made, Defendants possess and rely upon competent and reliable scientific evidence that substantiates the representation.

II.

IT IS FURTHER ORDERED that Defendants, and their agents, servants, employees, attorneys, corporations, subsidiaries, successors, assigns, and all other persons or entities in active concert or participation with any of the Defendants who receive actual notice of this Order by personal service, facsimile, or otherwise, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product or service, in or

affecting commerce, shall not make any representation, in any manner, expressly or by implication, about the benefits, performance or efficacy of such product or service, unless the representation is true, at the time it is made, Defendants possess and rely upon competent and reliable scientific evidence that substantiates the representation.

III.

IT IS FURTHER ORDERED that Defendants, and their agents, servants, employees, attorneys, corporations, subsidiaries, successors, assigns, and all other persons or entities in active concert or participation with any of the Defendants who receive actual notice of this Order by personal service, facsimile, or otherwise, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any product or service, in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication, the existence, contents, validity, results, conclusions, or interpretations of any test, study, or research.

MONETARY RELIEF

IV.

IT IS FURTHER ORDERED that:

A. Suspended Judgment—Defendants are jointly and severally liable for \$120,884.

However, this judgment shall be suspended upon the payment of \$85,000 as set forth in Paragraph B herein.

B. Defendants shall pay to Plaintiff as consumer redress the sum of \$85,000 as follows: \$10,000 upon Defendants' signing of this Order, such payment shall be deposited into a

redress fund escrow account, to be established by the Commission for the purpose of receiving payment due under this Order; the remaining \$75,000 shall be paid by the Defendants to Plaintiff within 90 days from the date the Judge signs this Order. If Defendants fail to pay the \$75,000 balance within 90 days after the entry of this Order then the entire judgment of \$120,884 will be immediately due and payable less any amounts Defendants have previously paid to Plaintiff.

C. All funds paid pursuant to this Paragraph shall be deposited into a fund administered by the Plaintiff or its agent to be used for consumer redress and other equitable relief as the Commission deems appropriate. Defendants will cooperate fully to assist Plaintiff in making the redress fund available to individual consumers including providing Plaintiff with purchaser identifying information. In the event that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to the Defendants' practices alleged in the complaint. Any funds not used for such equitable relief shall be deposited to the Treasury as disgorgement. Defendants shall have no right to challenge the Commission's choice of remedies under this Paragraph. No portion of this Judgment for equitable monetary relief shall be deemed a fine, penalty or punitive assessment, or forfeiture. The Commission shall have full and sole discretion to:

- (1) Determine the criteria for participation by individual claimants in any consumer redress program implemented pursuant to this Order;
- (2) Determine the manner and timing of any notices to be given to consumers regarding the existence and terms of such programs; and

- (3) Delegate any and all tasks connected with such redress program to any individuals, partnerships, or corporations; and pay reasonable fees, salaries, and expenses incurred thereby from the payments made pursuant to this Order;

D. Defendants expressly waive their rights to litigate the issue of disgorgement.

Defendants acknowledge and agree that all money paid pursuant to this Order is irrevocably paid to the Commission for purposes of settlement between Plaintiff and Defendants;

E. Defendants shall also furnish to the Plaintiff, in accordance with 31 U.S.C. § 7701, their taxpayer identification numbers (social security number, social insurance number, or employer identification number), which shall be used for purposes of collecting and reporting on any delinquent amount arising out of each Defendant's relationship with the government.

COMPLIANCE MONITORING

V.

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

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

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

- (1) obtaining discovery from any person, without further leave of court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45;
- (2) posing as consumers and suppliers to: Defendants or employees of TecnoZone, Marvin Jemal, Stephen Jemal, Jacob Dresdner, or any other entity managed or controlled in whole or in part by Defendants TecnoZone, Marvin Jemal, Stephen Jemal, and Jacob Dresdner without the necessity of identification or prior notice;

Provided that 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 obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

C. Defendants TecnoZone, Marvin Jemal, Stephen Jemal, and Jacob Dresdner shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to any conduct subject to this Order. The person interviewed may have counsel present.

COMPLIANCE REPORTING BY DEFENDANT

VI.

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,

(1) Defendants Marvin Jemal, Stephen Jemal, and Jacob Dresdner shall notify the Commission of the following:

(a) Any changes in Defendant's own residence, mailing addresses, and telephone numbers, within ten (10) days of the date of such change;

(b) Any changes in Defendant's own employment status (including self-employment) within ten (10) days of the date of such change. Such notice shall include the name and address of each business that Defendant is affiliated with, employed by, or performs services for; a statement of the nature of the business; and a statement of Defendant's duties and responsibilities in connection with the business;

(c) Any changes in Defendant's name or use of any aliases or fictitious names; and

(2) Defendants TecnoZone, Marvin Jemal, Stephen Jemal, and Jacob Dresdner shall notify the Commission of any changes in corporate structure that may affect compliance obligations arising under this Order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence

of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; the filing of a bankruptcy petition; or a change in the corporate name or address, at least thirty (30) days prior to such change, *provided* that, with respect to any proposed change in the corporation about which the Defendant learns less than thirty (30) days prior to the date such action is to take place, Defendant shall notify the Commission as soon as is practicable after obtaining such knowledge.

B. One hundred eighty (180) days after the date of entry of this Order, Defendants TecnoZone, Marvin Jemal, Stephen Jemal, and Jacob Dresdner, each 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) Any changes required to be reported pursuant to Subparagraph (A) above;
- (2) A copy of each acknowledgment of receipt of this Order obtained by Defendant pursuant to Paragraph VIII;

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:

Regional Director for Northeast Region
Federal Trade Commission
1 Bowling Green, Suite 318
New York, NY 10004
Re: FTC v. TecnoZone International, Inc., Civil Action No. _____.

D. For purposes of the compliance reporting required by this Paragraph, the Commission is authorized to communicate directly with Defendants TecnoZone, Marvin Jemal, Stephen Jemal, and Jacob Dresdner.

RECORD KEEPING PROVISIONS

VII.

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry of this Order, Defendants TecnoZone, Marvin Jemal, Stephen Jemal, and Jacob Dresdner, and their 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, for TecnoZone and any business where: (1) Marvin Jemal, Stephen Jemal or Jacob Dresdner is the majority owner of the business or directly or indirectly manages or controls the business; and (2) the business is engaged in the manufacturing, labeling, advertising, promotion, offering for sale, or distribution, in or affecting commerce, of any covered product, are hereby restrained and enjoined from failing to create and retain the following records:

- A. All advertisements and promotional materials containing representation(s) relating to a covered product;
- B. All materials that were relied upon in disseminating representation(s) relating to a covered product;
- C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession, custody, or control that contradict, qualify, or call into question the representation(s) relating to a covered product, or the basis relied upon for the representation, including

complaints and other communications with consumers or with governmental entities or consumer protection organizations;

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

E. 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;

F. 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;

G. Complaint and refund requests (whether received directly, indirectly, or through any third party) and any responses to those complaints or requests; and

H. Copies of all sales scripts, training materials, advertisements, or other marketing materials.

DISTRIBUTION OF ORDER BY DEFENDANT

VIII.

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

A. TecnoZone shall deliver a copy of this Order to all principals, officers, directors, managers, employees, agents, and representatives having responsibilities with respect to the subject matter of this Order, and shall secure from each such person a signed and dated statement acknowledging receipt of the Order. TecnoZone shall deliver this Order to current personnel within thirty (30) days after the date of service of this Order, and to new personnel within thirty (30) days after the person assumes such position or responsibilities.

B. Defendants Marvin Jemal, Stephen Jemal, and Jacob Dresdner shall deliver a copy of this Order to the principals, officers, directors, managers and employees under Marvin Jemal's, Stephen Jemal's, and Jacob Dresdner's control, for TecnoZone and any business that (a) employs or contracts for personal services from Marvin Jemal, Stephen Jemal, or Jacob Dresdner and (b) has responsibilities with respect to the subject matter of this Order. Marvin Jemal, Stephen Jemal, or Jacob Dresdner shall secure from each such person a signed and dated statement acknowledging receipt of the Order within thirty (30) days after the date of service of the Order or the commencement of the employment relationship.

ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANT

IX.

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

RETENTION OF JURISDICTION

X.

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

SO STIPULATED:

BARBARA ANTHONY
Regional Director

RONALD L. WALDMAN
DONALD G. D'AMATO
Federal Trade Commission
1 Bowling Green, Suite 318
New York, NY 10004
(212) 607-2829

Attorneys for the Plaintiff
FEDERAL TRADE COMMISSION

MARVIN JEMAL,
Individually and on behalf of
TecnoZone International, LLC and
TecnoZone America, LLC

STEPHEN JEMAL
Individually and on behalf of
TecnoZone International, LLC and
TecnoZone America, LLC

JACOB DRESDNER
Individually and on behalf of
TecnoZone International, LLC and
TecnoZone America, LLC

TecnoZone International, LLC

TecnoZone America, LLC

SO ORDERED

DATED: _____

UNITED STATES DISTRICT JUDGE