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7 UNITED STATES DISTRICT COURT  
8 FOR THE DISTRICT OF ARIZONA

9 United States of America,  
10 Plaintiff,

11 v.

12 Cutting Edge Marketing, LLC, an  
Arizona limited liability company; Cutting  
13 Edge Travel, LLC, an Arizona limited liability  
company; and Jeffrey Cope, individually and  
14 as an officer of Cutting Edge Marketing, LLC,  
and Cutting Edge Travel, LLC,  
15

16 Defendants.

**CIV-05-2899-PHX-SMM**

**STIPULATED JUDGMENT  
AND ORDER FOR  
PERMANENT INJUNCTION**

17 Plaintiff, the United States of America, acting upon notification and authorization to the  
18 Attorney General by the Federal Trade Commission (“FTC” or the “Commission”), has  
19 commenced this action by filing the complaint herein, and Defendants have been served with  
20 the summons and the complaint. The parties, represented by the attorneys whose names appear  
21 hereafter, have agreed to settlement of this action without adjudication of any issue of fact or  
22 law, and without Defendants admitting liability for any of the violations alleged in the  
23 complaint.

24 THEREFORE, on the joint motion of the parties, it is hereby ORDERED, ADJUDGED  
25 AND DECREED as follows:

26 **FINDINGS**

27 1. This Court has jurisdiction over the subject matter and the parties pursuant to  
28 28 U.S.C. §§ 1331, 1337(a), 1345 and 1355, and 15 U.S.C. §§ 45(m)(1)(A), 53(b), and 56(a).



1           4.       “Established business relationship” means a relationship between the seller and a  
2 person based on: (a) the person’s purchase, rental, or lease of the seller’s goods or services or  
3 a financial transaction between the person and seller, within the eighteen (18) months  
4 immediately preceding the date of the telemarketing call; or (b) the person’s inquiry or  
5 application regarding a product or service offered by the seller, within the three (3) months  
6 immediately preceding the date of a telemarketing call.

7           5.       “National Do Not Call Registry” means the National Do Not Call Registry,  
8 which is the “do-not-call” registry maintained by the Federal Trade Commission pursuant to 16  
9 C.F.R. § 310.4(b)(1)(iii)(B).

10          6.       “Representatives” means Defendants’ successors, assigns, officers, agents,  
11 servants, employees and those persons in active concert or participation with them who receive  
12 actual notice of this Order by personal service or otherwise.

13          7.       “Seller” means any person who, in connection with a telemarketing transaction,  
14 provides, offers to provide, or arranges for others to provide goods or services to the customer  
15 in exchange for consideration whether or not such person is under the jurisdiction of the  
16 Federal Trade Commission.

17          8.       “Telemarketer” means any person who, in connection with telemarketing,  
18 initiates or receives telephone calls to or from a customer or donor.

19          9.       The “Telemarketing Sales Rule” or “Rule” means the FTC Rule entitled  
20 “Telemarketing Sales Rule,” 16 C.F.R. § 310, attached hereto as Appendix A or as may be  
21 hereafter amended.

22          10.       “Telemarketing” means a plan, program, or campaign which is conducted to  
23 induce the purchase of goods or services or a charitable contribution, by use of one or more  
24 telephones and which involves more than one interstate telephone call. The term does not  
25 include the solicitation of sales through the mailing of a catalog which: contains a written  
26 description or illustration of the goods or services offered for sale; includes the business  
27 address of the seller; includes multiple pages of written material or illustrations; and has been  
28 issued not less frequently than once a year, when the person making the solicitation does not

1 solicit customers by telephone but only receives calls initiated by customers in response to the  
2 catalog and during those calls takes orders only without further solicitation. For purposes of  
3 the previous sentence, the term “further solicitation” does not include providing the customer  
4 with information about, or attempting to sell, any other item included in the same catalog  
5 which prompted the customer’s call or in a substantially similar catalog.

6 11. “Outbound telephone call” means a telephone call initiated by a telemarketer to  
7 induce the purchase of goods or services or to solicit a charitable contribution.

8 12. “Person” means any individual, group, unincorporated association, limited or  
9 general partnership, corporation, or other business entity.

10 **ORDER**

11 **I. PROHIBITION AGAINST ABUSIVE TELEMARKETING PRACTICES**

12 **IT IS ORDERED** that, in connection with telemarketing, Defendants and their  
13 Representatives are hereby permanently restrained and enjoined from engaging in, causing  
14 other persons to engage in, or assisting other persons to engage in, violations of the  
15 Telemarketing Sales Rule, including but not limited to initiating any outbound telephone call  
16 to a person’s telephone number on the National Do Not Call Registry of persons who do not  
17 wish to receive outbound telephone calls to induce the purchase of goods or services unless the  
18 seller proves:

19 A. The seller has obtained the express agreement, in writing, of such person to place  
20 calls to that person. Such written agreement shall clearly evidence such person’s authorization  
21 that calls made by or on behalf of a specific party may be placed to that person, and shall  
22 include the telephone number to which the calls may be placed and the signature of that  
23 person; or

24 B. The seller has an established business relationship with such person and that  
25 person has not previously stated that he or she does not wish to receive outbound telephone  
26 calls made by or on behalf of the seller;

27 *Provided, however,* that if the Commission promulgates rules that modify or supersede  
28 the Telemarketing Sales Rule, in whole or part, Defendants shall comply fully and completely

1 with all applicable requirements thereof, on and after the effective date of any such rules.

2 **II. CIVIL PENALTY AND RIGHT TO REOPEN**

3 **IT IS FURTHER ORDERED** that:

4 A. Judgment in the amount of Three Hundred and Forty-Five Thousand Dollars  
5 (\$345,000.00) is hereby entered against Defendants, jointly and severally, as a civil penalty,  
6 pursuant to Section 5(m)(1)(A) of the Federal Trade Commission Act, 15 U.S.C.  
7 § 45(m)(1)(A). Based upon Defendants' sworn representations in financial statements, full  
8 payment of the foregoing civil penalty is suspended except for Five Thousand Dollars  
9 (\$5,000.00), contingent upon the accuracy and completeness of the financial statements, as set  
10 forth in Subparagraphs C and D of this Paragraph.

11 B. Prior to or concurrently with their execution of this Order, Defendants shall  
12 transfer Five Thousand Dollars (\$5,000.00), as a non-suspended civil penalty payment, to their  
13 attorney, who shall hold the entire sum for no other purpose than payment to the Treasurer of  
14 the United States after entry of this Order by the Court. Within five (5) days of receipt of  
15 notice of the entry of this Order, Defendants' attorney shall transfer such civil penalty payment  
16 in the form of a wire transfer or certified or cashier's check made payable to the Treasurer of  
17 the United States. The check or written confirmation of the wire transfer shall be delivered to:  
18 Director, Office of Consumer Litigation, U.S. Department of Justice Civil Division, P.O. Box  
19 386, Washington, D.C. 20044. The cover letter accompanying the check shall include the title  
20 of this litigation and a reference to DJ# 102-3304.

21 C. Upon payment by Defendants' attorney as provided in Subparagraph B of this  
22 Paragraph, the remainder of the civil penalty judgment shall be suspended subject to the  
23 conditions set forth in Subparagraph D of this Paragraph.

24 D. Plaintiff's agreement to this Order is expressly premised upon the truthfulness,  
25 accuracy and completeness of Defendants' sworn financial statements and supporting  
26 documents submitted to the Commission, namely those of the Cutting Edge Marketing, LLC,  
27 Cutting Edge Travel, LLC, and Jeffrey Cope, signed and dated February 3, 2005, which  
28 include material information upon which Plaintiff relied in negotiating and agreeing to this

1 Order. If, upon motion by Plaintiff, this Court finds that Defendants have failed to disclose  
2 any material asset or materially misstated the value of any asset in the financial statements and  
3 related documents described above, then this Order shall be reopened and suspension of the  
4 judgment shall be lifted for the purpose of requiring payment of civil penalty in the full amount  
5 of the judgment (\$345,000.00), less the sum of all amounts paid to the Treasurer of the United  
6 States pursuant to Subparagraph B of this Paragraph. *Provided, however*, that in all other  
7 respects this Order shall remain in full force and effect, unless otherwise order by the Court.

8 E. In accordance with 31 U.S.C. § 7701, Defendants are hereby required, unless  
9 they have done so already, to furnish to Plaintiff and the FTC their respective taxpayer  
10 identifying numbers (social security numbers or employer identification numbers) which shall  
11 be used for purposes of collecting and reporting on any delinquent amount arising out of  
12 Defendants' relationship with the government.

13 F. Defendants agree that the facts as alleged in the complaint filed in this action  
14 shall be taken as true for the purpose of a nondischargeability complaint in any bankruptcy  
15 proceeding.

16 G. Proceedings instituted under this Paragraph are in addition to, and not in lieu of,  
17 any other civil or criminal remedies that may be provided by law, including any other  
18 proceedings the Plaintiff may initiate to enforce this Order.

### 19 **III. RECORD KEEPING PROVISIONS**

20 **IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of  
21 entry of this Order, Defendants Cutting Edge Marketing, LLC, and Cutting Edge Travel, LLC,  
22 and their successors and assigns, shall maintain and make available to the Plaintiff or  
23 Commission, within seven (7) days of receipt of a written request, business records  
24 demonstrating compliance with the terms and provisions of this Order.

### 25 **IV. DISTRIBUTION OF ORDER BY DEFENDANTS 26 AND ACKNOWLEDGMENTS OF RECEIPT**

27 **IT IS FURTHER ORDERED** that Defendants and their successors and assigns, shall  
28 within thirty (30) days of the entry of this Order, provide a copy of this Order including

1 Appendix A to all of their owners, principals, members, officers, and directors, as well as  
2 managers, agents, servants, employees, and attorneys having decision-making authority with  
3 respect to the subject matter of this Order; secure from each such person a signed statement  
4 acknowledging receipt of a copy of this Order; and shall, within ten (10) days of complying  
5 with this Paragraph, file an affidavit with the Court and serve the Commission, by mailing a  
6 copy thereof, to the Director, Western Region, Federal Trade Commission, 901 Market Street,  
7 Suite 570, San Francisco, California 94103, setting forth the fact and manner of their  
8 compliance, including the name and title of each person to whom a copy of the Order has been  
9 provided.

#### 10 **V. NOTIFICATION OF BUSINESS CHANGES**

11 **IT IS FURTHER ORDERED** that Defendants Cutting Edge Marketing, LLC, and  
12 Cutting Edge Travel, LLC, and their successors and assigns, shall notify the Director, Western  
13 Region, Federal Trade Commission, 901 Market Street, Suite 570, San Francisco, California  
14 94103, at least thirty (30) days prior to any change in such Defendant's business, including, but  
15 not limited to, merger, incorporation, dissolution, assignment, and sale, which results in the  
16 emergence of a successor corporation; the creation or dissolution of a subsidiary or parent, or  
17 any other change, which may affect such Defendant's obligations under this Order.

#### 18 **VI. NOTIFICATION OF INDIVIDUAL'S AFFILIATIONS**

19 **IT IS FURTHER ORDERED** that the Individual Defendant Jeffrey Cope shall, for a  
20 period of seven (7) years from the date of entry of this Order, notify the Director, Western  
21 Region, Federal Trade Commission, 901 Market Street, Suite 570, San Francisco, California  
22 94103, within thirty (30) days of his affiliation with a new business or employment whose  
23 activities include telemarketing.

#### 24 **VII. COMMUNICATION WITH DEFENDANTS**

25 **IT IS FURTHER ORDERED** that for the purposes of compliance reporting, if  
26 undersigned counsel no longer represents a Defendant, Plaintiff and the Commission are  
27 authorized to communicate directly with such Defendant.  
28

1 **VIII. FEES AND COSTS**

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

4 **IX. SEVERABILITY**

5 **IT IS FURTHER ORDERED** that the provisions of this Order are separate and  
6 severable from one another. If any provision is stayed or determined to be invalid, the  
7 remaining provisions shall remain in full force and effect.

8 **X. RETENTION OF JURISDICTION**

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

11 **XI. COMPLETE SETTLEMENT**

12 The parties, by their respective counsel, hereby consent to entry of the foregoing Order  
13 which shall constitute a final judgment and order in this matter. The parties further stipulate  
14 and agree that the entry of the foregoing Order shall constitute a full, complete and final  
15 settlement of this action.

16 **JUDGMENT IS THEREFORE ENTERED** in favor of Plaintiff and against  
17 Defendants, pursuant to all the terms and conditions recited above.

1 **FOR THE PLAINTIFF:**  
2 **FOR THE UNITED STATES OF AMERICA:**

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4 Assistant Attorney General  
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6 U.S. Department of Justice

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10 s/Michael A. Johns

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19 EUGENE THIROLF  
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22 s/Michael A. Johns  
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29 **FOR THE FEDERAL TRADE COMMISSION:**

30 s/Michael A. Johns  
31 s/Jeffrey Klurfeld

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JEFFREY KLURFELD  
33 Regional Director  
34 Western Region  
35 Federal Trade Commission

1 s/Michael A. Johns  
s/Linda K. Badger

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24 CUTTING EDGE MARKETING, LLC

25 s/Michael A. Johns  
26 s/Jeffrey Cope

27 \_\_\_\_\_  
28 JEFFREY COPE  
29 President

30 CUTTING EDGE TRAVEL, LLC

31 s/Michael A. Johns  
32 s/Jeffrey Cope

33 \_\_\_\_\_  
34 JEFFREY COPE  
35 President

36 s/Michael A. Johns  
37 s/Jeffrey Cope

38 \_\_\_\_\_  
39 JEFFREY COPE  
40 Individually and as an officer of Cutting Edge  
41 Marketing, LLC and Cutting Edge Travel, LLC