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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF UTAH**

In re: : No. 99-24771 GEC
JEFFREY D. SALBERG, : (Chapter 7)
Debtor. :

FEDERAL TRADE COMMISSION, :
Plaintiff : Adv. Proc. No. 99P-2347 GEC
v. :
JEFFREY D. SALBERG, : **STIPULATED JUDGMENT FOR
DEBT AND COURT APPROVED
STIPULATED SETTLEMENT**
Defendant. :

Subject to the approval of the United States Bankruptcy Court for the District of Utah, IT IS HEREBY STIPULATED by and between the plaintiff the Federal Trade Commission and the debtor and defendant Jeffrey D. Salberg as follows:

JURISDICTION

1. This Court has subject matter jurisdiction over this Stipulated Judgment for Nondischargeability of Debt (the “Stipulated Judgment”) pursuant to 28 U.S.C. Sections 157 and 1334, and 11 U.S.C. Section 523.
2. Venue in this district is proper under 28 U.S.C. Section 1409(a).
3. This adversary proceeding is a core proceeding pursuant to 28 U.S.C. Section 157(b)(2)(I).
4. This Stipulated Judgment arises in the bankruptcy case styled *In re Jeffrey D. Salberg* pending in this Court, Case No. 99-24771 (the “Bankruptcy Case”). In his Schedules of Assets and Liabilities filed in the Bankruptcy Case (the “Schedules”), Salberg scheduled the FTC as an unsecured creditor with a claim in an unknown amount. The FTC filed a proof of claim as an unsecured creditor with a non-priority claim in the amount of \$521,800.10, which included accrued interest (the “FTC Claim”).

RECITALS

5. The parties to this Stipulated Judgment are as follows:
 - (a) Jeffrey D. Salberg (“Salberg”); and
 - (b) The Federal Trade Commission (“FTC”).
6. The FTC is an independent agency of the United States given statutory authority and

responsibilities by the Federal Trade Commission Act, 15 U.S.C. Section 41 *et seq.*, as amended.

7. On June 8, 1998, the FTC accepted a consent agreement with Salberg and Mega Systems International, Inc. (“Mega Systems”) and issued its final order in an administrative proceeding styled *In the Matter of Mega Systems International, Inc., and Jeffrey Salberg*, FTC Dkt. C-3811 (the “Final Order”).

8. On June 25, 1998, the FTC served its Final Order on Salberg and Mega Systems requiring, *inter alia*, Salberg and Mega Systems to pay, jointly and severally, five hundred thousand dollars (\$500,000) in consumer redress by July 10, 1998.

9. Salberg and Mega Systems failed to pay the FTC \$500,000 by July 19, 1998, or thereafter.

10. On April 30, 1999, Salberg filed a voluntary petition in this Court for relief under Chapter 7 of the Bankruptcy Code, Title 11 of the United States Code, thereby commencing the Bankruptcy Case.

11. On August 3, 1999, the FTC filed a Complaint to Determine Nondischargeability of Certain Debts against Salberg in the Bankruptcy Case (the “Nondischargeability Action”). The Nondischargeability Action seeks a determination that the FTC Claim resulting from the Final Order in the amount of \$500,000.00, plus accrued interest (for a total of 521,800.10), is nondischargeable pursuant to 11 U.S.C. Section 523(a)(2) and (a)(7).

12. On August 24, 1999, Salberg filed an Answer to the Nondischargeability Action contending that the FTC Claim is dischargeable.

13. The FTC and Salberg have agreed to resolve the Nondischargeability Action on the

terms set forth below.

AGREEMENT

14. The foregoing recitals are true and correct.

15. The FTC and Salberg hereby stipulate and agree that the FTC Claim in the amount of \$521,800.10 is nondischargeable under 11 U.S.C. § 523(a)(7).

16. Salberg hereby stipulates and agrees to the entry of a nondischargeable judgment in favor of the FTC and against Salberg in the amount of \$521,800.10 under 11 U.S.C. § 523(a)(7).

17. Notwithstanding the entry of this Stipulated Judgment, the FTC, as the holder of the FTC Claim, shall be entitled to participate in any distribution, pursuant to 11 U.S.C. Section 726 and in accordance with the priorities of the Bankruptcy Code, paid by the Chapter 7 trustee appointed in this Bankruptcy Case (the "Trustee").

18. Within seven (7) days after the entry of an Order of the Court approving this Stipulated Judgment, Salberg shall pay to the FTC the total amount of \$30,000.00, in full and final satisfaction of the Stipulated Judgment (the "Settlement Amount"); *provided, however*, that the payment of the Settlement Amount shall not affect the right of the FTC as the holder of the FTC Claim to participate in any distribution by the Trustee in this Bankruptcy Case, as set forth in the immediately preceding paragraph. Payment shall be made to the Commission by certified check or other guaranteed funds payable to and delivered to the Commission, or by wire transfer in accord with directions provided by the Commission. If Salberg fails to timely and fully pay to the FTC the Settlement Amount in accordance with the terms set forth in this paragraph, the FTC shall be entitled to immediately exercise any and all rights and remedies against Salberg and his property, other than property of Salberg's

bankruptcy estate, to collect the nondischargeable judgment in favor of the FTC and against Salberg in the amount of \$521,800.10.

19. Any notices to the FTC under this Stipulated Judgment shall be delivered to the following:

Karen D. Dodge, Esq.
Federal Trade Commission
55 East Monroe Street, Suite 1860
Chicago, Illinois 60603.

20. Except for such obligations, rights or claims as may be created by or arise out of the terms and conditions of this Stipulated Judgment, including but not limited to paragraph 23 *infra*, upon timely receipt of the Settlement Amount of \$30,000.00 payable by the Debtor, the FTC shall hereby release and forever discharge Salberg, and his past and present successors, assigns, heirs and legatees, and each of them, separately and collectively, from any and all claims, liens, demands, causes of action, obligations, damages and liabilities, that it has against Salberg related to the Nondischargeability Action and Salberg's failure to comply with Part XIII of the Final Order; *provided, however*, that the nonmonetary provisions of the Final Order (*i.e.*, Parts I-XII, XIV-XIX) shall remain in full force and effect.

21. By signing and stipulating to entry of this Stipulated Judgment, Salberg waives any claim that he may have held under the Equal Access to Justice Act, 28 U.S.C. Section 2412, as amended by Pub. L. 104-121, 100 Stat. 847, 863-64 (1996), concerning the prosecution of the Final Order, the District Court Action, or any action in the Bankruptcy Case, including but not limited to the Nondischargeability Action, to the date of this Stipulated Judgment.

22. Salberg has received independent legal advice from attorneys of his own choice, with respect to the advisability of making the settlement and releases provided for herein, and with respect to the advisability of executing this Stipulated Judgment, Salberg's attorneys reviewed this Stipulated Judgment.

23. In executing this Stipulated Judgment, each party and its attorneys have made various statements and representations to other parties and their attorneys. Nevertheless, each party specifically does not rely upon any statement, representation, legal opinion, or promises of any other party in executing this Stipulated Judgment or in making the settlement provided for herein, except as expressly stated in this Stipulated Judgment; *provided, however*, that the FTC may be relieved from the relief provided for under paragraph 18 above related to the \$30,000.00 payment and retains all rights to collect from Salberg the nondischargeable judgment in favor of the FTC and against Salberg in the amount of \$521,800.10 if the FTC obtains an order from this Bankruptcy Court establishing that the Schedules filed by Salberg in this Bankruptcy Case ("Schedules") or the financial statement provided to the FTC by Salberg on August 29, 2001 (the "Financial Statement") are materially false, including, but not limited to, establishing that Salberg has (a) intentionally failed to disclose material assets in the Schedules or the Financial Statement; (b) materially misstated the value of any assets listed on the Schedules or the Financial Statement; or (c) materially misstated any liability in the Schedules or the Financial Statement.

24. In the event that any provision of this Stipulated Judgment should be held to be void, voidable, or unenforceable, the remaining portions hereof shall remain in full force and effect.

25. This Stipulated Judgment shall not be modified in any respect except by an instrument in

writing signed by all parties hereto and approved by the Court.

26. Each party hereto shall pay its own legal fees, costs, and other expenses incurred in this matter, and hereby waives any and all claims against all other parties hereto for recovery of said legal fees, costs and other expenses, except for the rights created in this Stipulated Judgment.

27. This Stipulated Judgment may be executed in counterparts and each such counterpart shall be deemed to be an original executed agreement.

IN WITNESS WHEREOF, the parties hereto have each approved and executed this Stipulated Judgment on the dates set forth opposite their respective signatures.

DATED: _____

JEFFREY D. SALBERG

By: _____
Jeffrey D. Salberg

DATED: _____

McDOWELL & GILLMAN, P.C.

By: _____
Duane H. Gillman
Attorneys for Jeffrey D. Salberg

DATED: _____

FEDERAL TRADE COMMISSION

By: _____
Karen D. Dodge
Attorney for Federal Trade Commission

ORDER

Based on the foregoing,

IT IS SO ORDERED by the United States Bankruptcy Court for the District of Utah.

DATED: _____

The Honorable Glen E. Clark
United States Bankruptcy Judge