

1 WILLIAM BLUMENTHAL
General Counsel
2
3 GUY G. WARD
DAVID A. O'TOOLE
Federal Trade Commission
4 55 West Monroe Street, Suite 1825
Chicago, Illinois 60603
5 PH. (312) 960-5634
FAX (312) 960-5600
6 gward@ftc.gov
dotoole@ftc.gov

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7 John D. Jacobs, Cal. Bar No. 134154
8 Federal Trade Commission
10877 Wilshire Boulevard, Suite 700
9 Los Angeles, California 90024
PH. (310) 824-4343
10 FAX (310) 824-4380
jjacobs@ftc.gov

11 Attorneys for Plaintiff
12 FEDERAL TRADE COMMISSION

13 UNITED STATES DISTRICT COURT
14 FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

LOGGED

15)
16 FEDERAL TRADE COMMISSION,) No. CV07-01791 TJH (SHx)
17) Plaintiff,)
18) v.) STIPULATED ORDER FOR
19 MYSTERY SHOP LINK, LLC,) PRELIMINARY INJUNCTION
20) AND ANDREW HOLMAN)
21) Defendants.)

22 Plaintiff, the Federal Trade Commission ("Commission" or
23 "FTC"), has filed a Complaint for Permanent Injunction and Other
24 Equitable Relief ("Complaint") against Defendants Mystery Shop
25 Link, LLC, Tangent Group, LLC; Robin Larry Murphy, Andrew Holman,
26 Kenneth Johnson, Harp Marketing Services, Inc., Aiden Reddin, and
27 Marc Gurney for deceptive acts and practices in connection with
28 the advertising and telemarketing of "mystery shopping" employment
opportunities. The Complaint alleges that these deceptive acts

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1 and practices violated Section 5(a) of the FTC Act, 15 U.S.C.
2 § 45(a). In conjunction with the filing of its Complaint, the
3 Commission also moved this Court for entry of an order holding
4 certain Defendants in contempt of the Consent Judgment And Order
5 For Permanent Injunction With Respect To Defendant Robin L.
6 Murphy, entered by this Court on April 14, 1997, in connection
7 with the case captioned FTC v. Stratified Advertising and
8 Marketing, Inc., et al., Civ. No. 96-4142 TJH (VAPx).

9 The Commission and Defendants Mystery Shop Link, LLC, Tangent
10 Group, LLC, and Andrew Holman have stipulated to the entry of the
11 following Stipulated Order for Preliminary Injunction ("Order");
12 and the Court, having considered the record and being fully
13 advised in the premises, hereby finds:

14 **FINDINGS**

15 1. This Court has jurisdiction over the subject matter of
16 this case and the parties hereto. Venue in the Central District
17 of California is proper. Defendants Mystery Shop Link, LLC,
18 Tangent Group, LLC, and Andrew Holman have been properly served
19 with process.

20 2. The alleged activities of Defendants are in or affecting
21 commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

22 3. There is good cause to believe that Defendants Mystery
23 Shop Link, LLC, Tangent Group, LLC, and Andrew Holman have engaged
24 in, and are likely to engage in, acts and practices that violate
25 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and that the
26 Commission is likely to prevail on the merits of this action.

27 4. There is good cause to believe that irreparable damage
28 to the Court's ability to grant effective final relief for

1 consumers in the form of monetary restitution will occur from the
2 sale, transfer, assignment, or other disposition or concealment by
3 Defendants of their assets or records unless Defendants are
4 restrained and enjoined by order of this Court.

5 5. Weighing the equities and considering the Commission's
6 likelihood of success in its causes of action, entry of this
7 preliminary injunction is in the public interest.

8 6. The parties have agreed to the entry of this stipulated
9 Order without adjudication of any issue of fact or law and without
10 Defendants admitting liability for any of the matters alleged in
11 the Complaint.

12 7. No security is required of any agency of the United
13 States for the issuance of a preliminary injunction. See Fed. R.
14 Civ. P. 65(c).

15 **ORDER**

16 **DEFINITIONS**

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

19 1. **"Plaintiff," "Commission," or "FTC"** means the Federal
20 Trade Commission.

21 2. **"Defendants"** means Mystery Shop Link, LLC, Tangent
22 Group, LLC, Robin Larry Murphy, Andrew Holman, Kenneth Johnson,
23 Harp Marketing Services, Inc., Aiden Reddin, and Marc Gurney, and
24 each of them, by whatever names each might be known.

25 3. **"Account number"** means any credit or debit card number,
26 bank account number, deposit account number, personal
27 identification number ("PIN"), access code, or security code,
28 needed to charge or debit a consumer's account.

1 4. **"Assets"** means any legal or equitable interest in, right
2 to, or claim to, any real and/or personal property, including but
3 not limited to chattels, goods, instruments, equipment, fixtures,
4 general intangibles, effects, leaseholds, mail or other
5 deliveries, inventory, checks, notes, accounts, credits,
6 receivables (as those terms are defined in the Uniform Commercial
7 Code), and all cash, wherever located.

8 5. **"Assisting others"** means providing any of the following
9 goods or services to any person or entity engaged in
10 telemarketing: (a) providing for or arranging for the provision of
11 mail or telephone lists that contain, incorporate, or utilize
12 consumers' account numbers; (b) preparing or providing, or causing
13 to be prepared or provided, telephone sales scripts or other
14 materials for use in connection with the promotion of products or
15 services to consumers; (c) providing, mailing or shipping, or
16 arranging for the provision, mailing, or shipping, of fulfillment
17 products or services; (d) providing or arranging for the provision
18 of telemarketing services; (e) providing or facilitating the means
19 of obtaining payment from consumers, by providing or facilitating
20 access to the credit card or bank account payment and collection
21 system; (f) performing or providing marketing services of any
22 kind; (g) developing, providing, or arranging for the provision of
23 names of potential customers; (h) providing or arranging for the
24 provision of post office boxes or the services of commercial
25 receiving agencies; (i) preparing, printing, or transmitting
26 invoices; (j) recording or verifying sales solicitations; and (k)
27 performing customer service functions, including, but not limited
28 to, receiving or responding to consumer complaints, obtaining or

1 receiving identifying and financial information from consumers,
2 and communicating with consumers on behalf of the seller or
3 telemarketer.

4 6. **"Consumer"** means any individual, group, unincorporated
5 association, limited or general partnership, corporation, or other
6 business entity.

7 7. **"Customer"** means any person who has paid, or may be
8 required to pay, for goods or services offered for sale or sold by
9 Defendants.

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

18 9. **"Person"** means a natural person, an organization or
19 other legal entity, including a corporation, partnership, sole
20 proprietorship, limited liability company, association,
21 cooperative, or any other group or combination acting as an
22 entity.

23 10. **"Telemarketing"** means any plan, program or campaign
24 (whether or not covered by the Telemarketing Sales Rule, 16 C.F.R.
25 Part 310) that is conducted to induce the purchase of goods or
26 services, or the payment of money, by means of the use of one or
27 more telephones.

28 11. **"Employment opportunity"** means any program, plan,

1 product or service that is represented to enable a participant or
2 purchaser to earn money through any employment.

3 **I. PROHIBITED BUSINESS ACTIVITIES**

4 **IT IS ORDERED** that Defendants Mystery Shop Link, LLC, Tangent
5 Group, LLC, and Andrew Holman, and their successors and assigns,
6 officers, agents, servants, employees, and attorneys, and those
7 persons in active concert or participation with them who receive
8 actual notice of this Order by personal service or otherwise,
9 whether acting directly or through any entity, corporation,
10 subsidiary, division, or other device, in connection with the
11 advertising, promotion, offering, or sale of any employment
12 opportunity, or any other product, program, good or service, are
13 hereby restrained and enjoined from:

14 A. Misrepresenting, expressly or by implication:

15 1. that Defendants are themselves hiring consumers to
16 perform work or are hiring on behalf of others;

17 2. that a specified number of mystery shopping jobs
18 are currently available through Defendants in consumers'
19 local areas;

20 3. that a large percentage, of mystery shopping jobs
21 go unfilled due to a lack of mystery shoppers; or

22 4. that consumers who pay a fee to Defendants for
23 access to mystery shopping jobs are likely to earn
24 substantial income;

25 B. Falsely representing that any consumer will receive a
26 list identifying multiple open positions or jobs in the consumer's
27 chosen field and/or geographical location;

28 C. Falsely representing the conditions a consumer must

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1 satisfy to obtain a refund;

2 D. Failing to clearly disclose to any consumer all material
3 conditions of obtaining a refund if, and at the time, the
4 possibility of obtaining a refund is mentioned to the consumer;

5 E. Misrepresenting, expressly or by implication, or failing
6 to disclose, any fact material to a consumer's decision to
7 purchase or use any product, program, good, or service;

8 F. Accepting payment or other consideration from any
9 consumer, or on behalf of any consumer, in connection with the
10 advertising, promotion, offering, or sale of any employment
11 opportunity; and

12 G. Assisting others who violate any provision of Paragraphs
13 A through F of this Section.

14 **II. MAINTAIN RECORDS**

15 **IT IS FURTHER ORDERED** that Defendants Mystery Shop Link, LLC,
16 Tangent Group, LLC, and Andrew Holman, and their officers, agents,
17 directors, servants, employees, salespersons, independent
18 contractors, attorneys, corporations, subsidiaries, affiliates,
19 shareholders, successors, assigns, and all other persons or
20 entities in concert or participation with them who receive actual
21 notice of this Order by personal service or otherwise, whether
22 acting directly or through any trust, corporation, subsidiary,
23 division, or other device, or any of them, are hereby restrained
24 and enjoined from:

25 A. Failing to create and maintain books, records, accounts,
26 bank statements, current accountants' reports, general ledgers,
27 general journals, cash receipt ledgers, source documents,
28 documents indicating title to real or personal property, and any

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1 other data which in reasonable detail fairly, accurately, and
2 completely reflect the incomes, disbursements, transactions and
3 uses of Defendants' Assets;

4 B. Destroying, erasing, mutilating, concealing, altering,
5 transferring, or otherwise disposing of in any manner, directly or
6 indirectly, any scripts, advertisements, verification tapes,
7 books, records, tapes, disks, contracts, accounting data,
8 handwritten notes, checks (fronts and backs), correspondence,
9 forms, manuals, electronically stored data, banking records,
10 consumer or debtor lists or files, mailing lists, telemarketer
11 lists, invoices, telephone records, receipt books, postal
12 receipts, ledgers, payroll records, or other Documents of any
13 kind, including information stored in computer-maintained form
14 (such as electronic mail), in their possession, custody, or
15 control.

16 **III. FINANCIAL STATEMENTS**

17 **IT IS FURTHER ORDERED** that, no later than ten (10) calendar
18 days after entry of this Order, unless they have already done so,
19 Defendants Mystery Shop Link, LLC, Tangent Group, LLC, and Andrew
20 Holman, shall provide to counsel for the Commission:

21 A. A completed financial statement accurate as of the date
22 of service of this Order upon such Defendant, in the forms
23 previously provided to Defendants, along with the required
24 attachments; and

25 B. A completed statement, verified under oath, of all
26 payments, transfers, or assignments of funds, assets, or property
27 worth \$5,000.00 or more since January 1, 2005. Such statement
28 shall include: (1) the amount paid, transferred or assigned; (2)

1 the name, address, and telephone number of each payee, transferee
2 or assignee; (3) the date of the payment, assignment or transfer;
3 and (4) the type and amount of consideration paid by or to the
4 Defendant. Each statement shall specify the name and address of
5 each financial institution or brokerage firm at which the
6 Defendant has accounts or safe deposit boxes. Said statements
7 shall include assets held in foreign as well as domestic accounts.

8 IV. ASSET PRESERVATION

9 **IT IS FURTHER ORDERED** that Defendants Mystery Shop Link, LLC,
10 Tangent Group, LLC, and Andrew Holman, and their officers,
11 directors, agents, servants, employees, salespersons,
12 distributors, corporations, subsidiaries, affiliates, successors,
13 assigns, and those persons or entities in active concert or
14 participation with them who receive actual notice of this Order by
15 personal service, facsimile, or otherwise, are hereby enjoined
16 from directly or indirectly selling, liquidating, assigning,
17 transferring, converting, loaning, encumbering, pledging,
18 concealing, dissipating, spending, withdrawing, or otherwise
19 disposing of any funds, real or personal property, or other assets
20 or any interest therein, wherever located, including any assets
21 outside the territorial United States, which are owned and
22 controlled by them, or held for their benefit, in whole or in
23 part, or in their possession, other than those expenditures or
24 transfers for reasonable, actual, and necessary business
25 operations and business and personal expenses that they will
26 reasonably incur. The funds, property and assets affected by this
27 Paragraph shall include both existing assets and assets acquired
28 after the effective date of this Order, including without

1 limitation, those acquired by loan or gift.

2 Provided, however, that Defendants Mystery Shop Link, LLC,
3 Tangent Group, LLC, and Andrew Holman, shall, upon request by the
4 FTC on a monthly basis, produce copies of all documents reflecting
5 such transfers or expenditures for reasonable, actual, and
6 necessary business operations and business and personal expenses,
7 including, but not limited to, books and records of accounts, all
8 financial and accounting records, balance sheets, income
9 statements, and bank records (including monthly statements,
10 canceled checks, records of wire transfers, and check registers).

11 **V. PROHIBITIONS REGARDING CONSUMER INFORMATION**

12 **IT IS FURTHER ORDERED** that Defendants Mystery Shop Link, LLC,
13 Tangent Group, LLC, and Andrew Holman, their successors and
14 assigns, officers, agents, servants, employees, and attorneys, and
15 those persons in active concert or participation with them who
16 receive actual notice of this Order by personal service or
17 otherwise, whether acting directly or through any entity,
18 corporation, subsidiary, division, or other device, are hereby
19 restrained and enjoined from:

20 A. Selling, renting, leasing, transferring, or otherwise
21 disclosing the name, address, telephone number, Social Security
22 number, account number, e-mail address, or other identifying
23 information of any person about whom any Defendant obtained such
24 information in connection with the activities alleged in the
25 Complaint; and

26 B. Benefitting from or using the name, address, telephone
27 number, Social Security number, account number, e-mail address, or
28 other identifying information of any person about whom any

1 Defendant obtained such information in connection with the
2 activities alleged in the Complaint;

3 Provided, however, that Defendants may disclose identifying
4 information to a law enforcement agency or as required by any law,
5 regulation, or court order.

6 **VI. CREATION OF OTHER BUSINESSES**

7 **IT IS FURTHER ORDERED** that Defendants Mystery Shop Link, LLC,
8 Tangent Group, LLC, and Andrew Holman, are hereby restrained and
9 enjoined, until further order of this Court, from creating,
10 operating, or controlling any business entity, whether newly-formed
11 or previously inactive, including, without limitation, any
12 partnership, limited partnership, joint venture, sole proprietorship,
13 limited liability company, or corporation, without first providing
14 the Commission with a written statement disclosing: (1) the name of
15 the business entity; (2) the address and telephone number of the
16 business entity; (3) the names of the business entity's owners,
17 officers, directors, principals, managers, members, and employees;
18 and (4) a detailed description of the business entity's intended
19 activities.

20 **VII. DISTRIBUTION OF ORDER BY DEFENDANTS**

21 **IT IS FURTHER ORDERED** that Defendants Mystery Shop Link, LLC,
22 Tangent Group, LLC, and Andrew Holman, shall immediately provide a
23 copy of this Order to each of their corporations, subsidiaries,
24 affiliates, divisions, directors, officers, partners, shareholders,
25 successors, assigns, employees, attorneys, agents, and independent
26 contractors. Within five calendar days following service of this
27 Order by Plaintiff, such Defendants shall serve upon Plaintiff an
28 affidavit identifying the names, titles, addresses, and telephone

1 numbers of the persons and entities Defendants have served with a
2 copy of this Order in compliance with this provision.

3 **VIII. NOTICE OF THIS ORDER**

4 **IT IS FURTHER ORDERED** that copies of this Order may be
5 distributed by first class mail, overnight delivery, facsimile,
6 electronic mail, or personally, by agents or employees of Plaintiff,
7 upon any credit card processing agent or agent providing electronic
8 funds transfer services or automated clearing house processing,
9 customer service agent, commercial mail receiving agency, mail
10 holding or forwarding company, bank, savings and loan institution,
11 credit union, financial institution, accountant, brokerage house,
12 escrow agent, IRA custodian, money market or mutual fund, title
13 company, commodity futures merchant, commodity trading company,
14 common carrier, storage company, trustee, or any other person,
15 partnership, corporation, or legal entity that may be in possession
16 of any Documents, records, Assets, property, or property right of any
17 named Defendant, and any Internet service provider or other person,
18 partnership, corporation, or legal entity that may be subject to any
19 provision of this Order. Service upon any branch or office of any
20 financial institution or entity shall effect service upon the entire
21 financial institution or entity.

22 **IX. CONSUMER REPORTING AGENCIES**

23 **IT IS FURTHER ORDERED** that, pursuant to Section 604 of the Fair
24 Credit Reporting Act, 15 U.S.C. § 1681b, any consumer reporting
25 agency may furnish to the FTC a consumer or credit report concerning
26 Mystery Shop Link, LLC, Tangent Group, LLC, or Andrew Holman.

27 **X. SEVERABILITY**

28 **IT IS FURTHER ORDERED** that the provisions of this Order are

1 separate and severable from one another. If any provision is
2 stayed or determined to be invalid, the remaining provisions shall
3 remain in full force and effect.

4 XI. RETENTION OF JURISDICTION

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

7
8 IT IS SO ORDERED.

9
10 Dated: _____ United States District Judge
11

12 SIGNED AND STIPULATED BY:

13
14
15 _____
16 Guy G. Ward
17 David A. O'Toole
18 Federal Trade Commission
19 55 E. Monroe St., Suite 1860
20 Chicago, IL 60603
21 (312) 960-5634
22 Attorneys for Plaintiff
23 Federal Trade Commission

Dated: _____

24 _____
25 Laurence D. Strick
26 Stolar & Associates P.L.C.
27 433 North Camden Drive, Suite 600
28 Beverly Hills, CA 90210
29 (310) 288-1828
30 Attorney for Defendants
31 Mystery Shop Link, LLC, Tangent
32 Group, LLC, and Andrew Holman

Dated: 4/26/07

33 _____
34 Defendant Andrew Holman,
35 individual and as an owner
36 and principal of Mystery
37 Shop Link, LLC, and Tangent
38 Group, LLC

Dated: 4/17/07

