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CENTRAL DISTRICT OF CALIFORNIA  
BY \_\_\_\_\_ DEPUTY

*[Handwritten signature]*

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

FEDERAL TRADE COMMISSION, ) No. CV 01-1896 CBM (Ex)  
 )  
Plaintiff, ) **ORDER FOR PERMANENT**  
 ) **INJUNCTION AND OTHER RELIEF AS**  
vs. ) **TO DEFENDANTS MEDICOR LLC,**  
 ) **ANDREW RUBIN, AND MATTHEW**  
MEDICOR, LLC, et al., ) **RUBIN**  
 )  
Defendants. )

The matter before the Court, the Honorable Consuelo B. Marshall, United States District Judge presiding, is Plaintiff Federal Trade Commission's ("FTC") Motion for Summary Judgment. Consistent with the Court's Order granting Plaintiff Federal Trade Commission's Motion for Summary Judgment, the Court HEREBY ORDERS:

DEFINITIONS

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

"Medical billing work-at-home opportunity" means any program, plan, product or service that enables a participant or purchaser to earn money by working at home processing medical claims.

"Work-at-home opportunity" means any program, plan, product or service that enables a participant or purchaser to earn money by working at home.

"Business of telemarketing" means any activity (including, but not limited to, initiating or

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1 receiving telephone calls, managing others who initiate or receive telephone calls, operating an  
2 enterprise that initiates or receives telephone calls, owning an enterprise that initiates or receives  
3 telephone calls, or otherwise participating as an officer, director, employee, independent contractor,  
4 or consultant in or for an enterprise that initiates or receives telephone calls) that involves attempts  
5 to induce consumers to purchase any item, product, good, service, investment, partnership interest,  
6 trust interest, or other beneficial interest, to make a charitable contribution, or to enter a contest for  
7 a prize, by means of telephone sales presentations, either exclusively or in conjunction with the use  
8 of other forms of marketing; provided, however, that the term "business of telemarketing" shall not  
9 include transactions that are not completed until after a face-to-face contact between the seller or  
10 solicitor and the consumer solicited, and the consumer is not required to pay or authorize payment  
11 until after such a presentation.

12 "Assisting others engaged in the business of telemarketing" means providing any of the  
13 following goods or services to any person or entity engaged in the business of telemarketing: (a)  
14 performing customer service functions, including but not limited to receiving or responding to  
15 consumer complaints; (b) formulating, providing, or arranging for the formulation or provision of  
16 any telephone sales script or any other written marketing material; (c) providing training, instruction,  
17 advice, or information for use in telemarketing; (d) procuring or providing office space, equipment,  
18 or financial support; or (e) processing any credit card, debit card, or bank debit payments.

#### 19 I. PROHIBITED BUSINESS ACTIVITIES

20 A. IT IS HEREBY ORDERED that Defendants Medicor LLC, Andrew Rubin and Matthew  
21 Rubin, and each of them, are hereby

22 (1) Permanently restrained and enjoined from engaging in deceptive acts or practices in the  
23 business of telemarketing, or from assisting others in engaging in deceptive acts or practices in the  
24 business of telemarketing, or from engaging in deceptive acts or practices in assisting others engaged  
25 in the business of telemarketing; and

26 (2) Permanently restrained and enjoined from the promotion, advertising, marketing, sale,  
27 or offering for sale of any medical billing work-at-home opportunity.

28 B. IT IS FURTHER ORDERED THAT Defendants Medicor, Andrew Rubin, and Matthew

1 Rubin, and each of them, and their officers, directors, agents, servants, employees, salespersons,  
2 attorneys, corporations, trusts, subsidiaries, affiliates, successors, assigns, and other entities or  
3 persons directly or indirectly under their control, and all persons or entities in active concert or  
4 participation with them who receive actual notice of this Order by personal service, facsimile or  
5 otherwise, are hereby permanently restrained and enjoined from making, or assisting others in  
6 making, directly or by implication, any false or misleading oral or written statement or representation  
7 in connection with the promotion, advertising, marketing, sale, or offering for sale of any work-at-  
8 home opportunity, product, service, or investment, including, but not limited to:

9 (1) Falsely representing, directly or by implication, the likely profits to be made through any  
10 work-at-home opportunity, product, service or investment;

11 (2) Falsely representing, directly or by implication, the costs associated with the advertising,  
12 promotion, offer for sale, or sale of any work-at-home opportunity, product, service, or investment;

13 (3) Falsely representing, directly or by implication, the risk, liquidity, market value, resale  
14 value, or expected income or profit associated with any work-at-home opportunity, product, service,  
15 or investment;

16 (4) Falsely representing, directly or by implication, the amount of time or effort required to  
17 make the expected income or profit associated with any work-at-home opportunity, product, service,  
18 or investment;

19 (5) Falsely representing, directly or by implication, or failing to disclose, any policy  
20 concerning refund of monies paid to the Defendants;

21 (6) Falsely representing, directly or by implication, any fact material to a consumer's  
22 decision to purchase any work-at-home opportunity, product, service, or investment from  
23 Defendants.

## 24 II. MONETARY RELIEF

25 IT IS FURTHER ORDERED that:

26 A. Judgment is hereby entered against the Defendants jointly and severally, in the amount  
27 of \$16,562,364.51 with post-judgment interest at the legal rate, for equitable monetary relief,  
28 including but not limited to consumer redress and disgorgement, and for paying any attendant

1 expenses of administering any redress fund. In conjunction with the claims process previously  
2 ordered by the Court, such funds shall be (1) distributed as redress to consumers, and/or (2) paid to  
3 the U.S. Treasury as equitable disgorgement. Any funds not used for such equitable relief shall be  
4 deposited to the Treasury as disgorgement. Defendants shall have no right to challenge the  
5 Commission's choice of remedies under this Paragraph.

6 B. All amounts the Receiver has in Receivership accounts and in segregated trust accounts  
7 in this matter may be used in partial satisfaction of this judgment. The monetary judgment set forth  
8 in Paragraph A of this section is enforceable against any asset(s) owned jointly by or held on behalf  
9 of, for the benefit of, or in trust by or for, Medicor, Andrew Rubin or Matthew Rubin.

### 10 III. RECORD-KEEPING PROVISIONS

11 **IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of entry of  
12 this Order, in connection with any business where (1) any Defendant is the majority owner of the  
13 business, or directly or indirectly manages or controls the business, such Defendant and his assigns,  
14 agents, servants, employees, salespersons, and all other persons or entities directly or indirectly under  
15 his control, and all other persons or entities in active concert or participation with him, who receive  
16 actual notice of this Order by personal service or otherwise, whether acting directly or through any  
17 corporation, subsidiary, division, or other device, are hereby permanently restrained and enjoined  
18 from failing to create and retain the following records:

19 A. Accounting records that reflect the cost of any work-at-home opportunity, product, good,  
20 service, or investment sold, revenues generated, and the disbursement of such revenues;

21 B. Personnel records accurately reflecting the name, address, and telephone number of each  
22 person employed in any capacity by such business, including as an independent contractor; that  
23 person's job title or position; the date upon which the person commenced work; and the date and  
24 reason for the person's termination, if applicable;

25 C. Customer files containing the names, addresses, telephone numbers, dollar amounts paid,  
26 quantity of goods or services purchased, and description of goods or services purchased, to the extent  
27 that such information is obtained in the ordinary course of business;

28 D. Complaint and refund requests (whether received directly, indirectly, or through a third

1 party) and any responses to those complaints or requests; and

2 E. Copies of all sales scripts, training materials, advertisements, or other marketing  
3 materials, including but not limited to such materials distributed on the Internet or otherwise through  
4 Web sites or Web pages.

#### 5 IV. COMPLIANCE REPORTING BY DEFENDANTS

6 IT IS FURTHER ORDERED that, in order that compliance with the provisions of this  
7 Order may be monitored:

8 A. For a period of five (5) years from the date of entry of this Order, each Defendant shall  
9 notify the Commission in writing of the following:

10 1. Any changes in the Defendant's residential address, mailing address, and telephone  
11 numbers, within ten (10) days of the date of such change;

12 2. Any changes in the Defendant's employment status, including self-employment, within  
13 ten (10) days of such change. Such notice shall include the name and address of each business that  
14 Defendant is affiliated with or employed by, a statement of the nature of the business, and a  
15 statement of Defendant's duties and responsibilities in connection with the business or employment;  
16 and

17 3. Any proposed changes in the structure of any business entity owned or controlled by any  
18 Defendant, such as creation, incorporation, dissolution, assignment, sale, creation or dissolution of  
19 subsidiaries, or any other change that may affect compliance obligations arising out of this Order,  
20 thirty (30) days prior to the effective date of any proposed change.

21 B. One hundred eighty (180) days after the date of entry of this Order, each Defendant shall  
22 provide a written report to the Commission, sworn under penalty of perjury, setting forth in detail  
23 the manner and form in which such Defendant has complied and is complying with this Order. This  
24 report shall include, but not be limited to:

25 1. Defendant's then-current residential address and telephone number;

26 2. Defendant's then-current employment, business address and telephone numbers, a  
27 description of the business activities of each such employer, and Defendant's title and  
28 responsibilities for each employer;

1 3. A copy of each acknowledgment of receipt of this Order obtained by Defendant, pursuant  
2 to Section V below; and

3 4. A statement describing the manner in which Defendant has complied and is complying  
4 with the provisions set forth in Sections I-III above.

5 C. Upon written request by a representative of the Commission, each Defendant shall submit  
6 additional written reports (under oath, if requested) and produce documents on fifteen (15) days'  
7 notice with respect to any conduct subject to this Order.

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

10 Associate Director  
11 Division of Marketing Practices  
12 Federal Trade Commission  
13 600 Pennsylvania Avenue, N.W., H-238  
14 Washington, D.C. 20580  
15 Re: *FTC v. Medicor LLC, et al*

16 E. For the purposes of this Section, "employment" includes the performance of services as  
17 an employee, consultant, or independent contractor; and "employer" includes any individual or entity  
18 for whom any Defendant performs services as an employee, consultant, or independent contractor.

19 F. For the purposes of the compliance reporting required by this Section, the Commission  
20 is authorized to communicate directly with any Defendant.

21 **V. COMMISSION'S AUTHORITY TO MONITOR COMPLIANCE**

22 **IT IS FURTHER ORDERED** that the Commission is authorized to monitor any  
23 Defendant's compliance with this Order by all lawful means, including, but not limited to, the  
24 following:

25 A. The manner provided by Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1;

26 B. The Commission is authorized to use representatives posing as consumers or suppliers  
27 to any Defendant, Defendant's employees, or any other entity managed or controlled in whole or in  
28 part by any Defendant, without the necessity of identification or prior notice; and

C. Nothing in this Order shall limit the Commission's lawful use of compulsory process.

///

1 **VI. ACCESS TO BUSINESS PREMISES**

2 **IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of entry of  
3 this Order, for the purpose of further determining compliance with this Order, each Defendant shall  
4 permit representatives of the Commission, within three (3) business days of receipt of written notice  
5 from the C . . .

6 A. Access during normal business hours to any office, or facility storing documents, of any  
7 business where Defendant is the majority owner of the business or directly or indirectly manages  
8 or controls the business;

9 B. In providing such access, Defendant shall:

10 1. Permit representatives of the Commission to inspect and copy all documents relevant to  
11 any matter contained in this Order; and shall permit Commission representatives to remove  
12 documents relevant to any matter contained in this Order, for a period not to exceed three (3)  
13 business days, so that the documents may be inspected, inventoried, and copied; and

14 2. To interview the officers, directors, and employees, including all personnel involved in  
15 responding to consumer complaints or inquiries, and all sales personnel, whether designated as  
16 employees, consultants, independent contractors, or otherwise, of any business to which Paragraph  
17 A of this Section applies, concerning matters relating to compliance with the terms of this Order.  
18 The person interviewed may have counsel present.

19 Provided that, upon application of the Commission and for good cause shown, the Court may  
20 enter an *ex parte* order granting immediate access to any Defendant's business premises for the  
21 purposes of inspecting and copying all documents relevant to any matter contained in this Order.

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

23 **IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of entry of  
24 this Order, each Defendant shall:

25 A. Provide a copy of this Order to, and obtain a signed and dated acknowledgment of receipt  
26 of same from, each officer or director, each individual serving in a management capacity, all  
27 personnel involved in responding to consumer complaints or inquiries, and all sales personnel,  
28 whether designated as employees, consultants, independent contractors or otherwise, immediately

1 upon employing or retaining any such persons, for any business where Defendant is the majority  
2 owner of the business or directly or indirectly manages or controls the business;

3 B. Maintain for a period of three (3) years after creation, and upon reasonable notice, make  
4 available to representatives of the Commission, the original signed and dated acknowledgments of  
5 the receipt of copies of this Order, as required in this Section.

6 **VIII. ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANTS**

7 **IT IS FURTHER ORDERED** that within five (5) business days after receipt by  
8 each Defendant of this Order as entered by the Court, each Defendant shall submit to the  
9 Commission a truthful sworn statement, in the form shown on the attachment to this Order,  
10 that shall acknowledge receipt of this Order.

11 **IX. RETENTION OF JURISDICTION**

12 **IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this matter  
13 for the purpose of enabling any party to this Order to apply to the Court at any time for such  
14 further orders or directives as may be necessary or appropriate for the interpretation or  
15 modification of this Order, for the enforcement of compliance therewith, or the punishment  
16 of violations thereof.

17  
18 SO ORDERED, this 18<sup>th</sup> day of July, 2002.

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20 **CONSUELO B. MARSHALL**  
21 **UNITED STATES DISTRICT JUDGE**

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28



1 Stephen Gurwitz  
Peter Lamberton  
2 Patricia A. Poss  
Federal Trade Commission  
3 600 Pennsylvania Avenue, NW  
Washington, DC 20580  
4 (202) 326-3272;3274;2413  
(202) 326-3395 (fax)

5 John Jacobs  
6 Cal. Bar No. 134154  
Federal Trade Commission  
7 10877 Wilshire Blvd., Ste. 700  
Los Angeles, CA 90024  
8 (310)824-4360  
(310)824-4380 (fax)

9 ATTORNEYS FOR PLAINTIFF  
10 FEDERAL TRADE COMMISSION

11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**  
13 **WESTERN DIVISION**

14 FEDERAL TRADE COMMISSION,

15 Plaintiff

16 v.

17 MEDICOR LLC, a Nevada  
limited liability company,

18 MAVEN HOLDINGS, INC.,

19 THE S&M TRUST,

20 ANDREW RUBIN, individually,  
21 and as the Manager of  
MEDICOR LLC, and

22 MATTHEW RUBIN, individually,  
23 and as Principal of  
MEDICOR LLC

24 Defendants  
25

CV 01-1896(CBM)(Ex)

AFFIDAVIT OF RECEIPT  
OF ORDER

26 I, \_\_\_\_\_, being duly sworn, hereby state and affirm as follows:

27 1. My name is \_\_\_\_\_. My current residence address is \_\_\_\_\_

28 \_\_\_\_\_. I am a citizen of the United States and am over the age of  
eighteen. I have personal knowledge of the facts set forth in this Affidavit.

1 2. I am a defendant in the above captioned case.

2 3. On \_\_\_\_\_, I received a copy of the Order for Permanent  
3 Injunction and Other Relief, which was signed by the Hon. Consuelo B. Marshall  
4 and entered by the Court on \_\_\_\_\_. A true and correct copy of the Order I  
5 received is appended to this Affidavit.

6 I declare under penalty of perjury under the laws of the United States that  
7 the foregoing is true and correct.

8  
9 Executed on \_\_\_\_\_, at \_\_\_\_\_, California.

10  
11 \_\_\_\_\_  
12 (DEFENDANT)  
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