

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	
)	
)	
CREDIAMERICA GROUP, INC.,)	
d/b/a Latin Shopping Network,)	
a Florida corporation;)	Case No. 05-20504-CIV-Martinez
)	
AMERICA COMMUNICATIONS GROUP, INC.,)	
a Florida corporation;)	
and)	
)	
FELIPE TAVERAS,)	
individually and as an officer of the above)	
listed companies,)	
)	
Defendants.)	

STIPULATED FINAL JUDGMENT AND ORDER FOR PERMANENT INJUNCTION

Plaintiff, the Federal Trade Commission (“FTC” or “the Commission”), having filed a Complaint for Permanent Injunction and Other Relief against Crediamerica Group, Inc., d/b/a Latin Shopping Network, America Communications Group, Inc., and Felipe Taveras (collectively, “Defendants”), alleging violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FTC’s Trade Regulation Rule entitled “Mail or Telephone Order Merchandise Rule” (the “Telephone Order Rule” or the “Rule”), 16 C.F.R. § 435.1, in connection with the marketing and sale of computers; and the parties having agreed to settlement of this action upon the following terms and conditions, without adjudication of any issue of fact or law and without

Defendants admitting liability for any of the matters alleged in the Complaint;

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. The Commission brought this action pursuant to Sections 5(a), 13(b) and 19 of the
the
FTC Act, 15 U.S.C. §§ 45(a), 53(b) and 57b. The Commission seeks both permanent injunctive relief and consumer redress against Defendants in connection with the marketing, advertising, promotion, offering for sale, or sale of computer equipment.
2. The Complaint states a claim upon which relief may be granted against Defendants under Sections 5(a), 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 45(a), 53(b) and 57b and the Telephone Order Rule, 16 C.F.R. § 435.1.
3. This Court has jurisdiction over the subject matter of this case and all parties hereto. Venue in the Southern District of Florida is proper under 28 U.S.C. §§ 1391(b) and (c), and 15 U.S.C. § 53(b).
4. The alleged acts and practices of Defendants are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
5. Defendants waive all rights to seek judicial review or otherwise challenge the validity of this Order. Defendants also waive any claims 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.
6. Each party shall bear its own costs and attorneys' fees.

7. Entry of this Order is in the public interest.
8. Pursuant to Federal Rule of Civil Procedure 65(d), the provisions of this Order are binding upon Defendants, and their officers, agents, servants, employees and attorneys, and all other persons or entities in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise.

DEFINITIONS

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

- A. “Defendants” means (1) Crediamerica Group, Inc., d/b/a Latin Shopping Network;

(2) America Communications Group, Inc.; (3) Felipe Taveras, individually and in his capacity as an officer of Crediamerica Group and America Communications Group; and (4) each of the above.
- B. “Computer equipment” means any component that could be used as part of a personal computer system, including but not limited to a central processing unit or hard drive, monitor or screen, keyboard, speakers, computer mouse, headphones, CD or DVD drive, printer, scanner, or fax machine, as well as any software or other materials such as CDs or DVDs that could be used or viewed via personal computer.
- C. “Material” means likely to affect a person’s choice of, or conduct regarding, goods or services.
- D. The terms “and” and “or” in this Order shall be construed conjunctively or disjunctively as necessary to make the applicable sentence or phrase inclusive

rather than exclusive.

ORDER

I. PROHIBITED BUSINESS ACTIVITIES

IT IS THEREFORE ORDERED that Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors and assigns, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any corporation, subsidiary, division, or other device, or any of them, in connection with the marketing, advertising, promotion, offering for sale, or sale of computer equipment, or other product or service, are hereby restrained and enjoined from making, or assisting others in the making of, expressly or by implication, orally or in writing, any statement or representation of material fact that is false or misleading, including but not limited to:

- A. Any misrepresentation that consumers will receive a complete computer system, or any computer equipment or other product or service, by paying the advertised purchase price; and
- B. Misrepresenting any material aspect of the performance, efficacy, nature, price, or central characteristics of the product or service that is the subject of a sales offer.

II. PROHIBITIONS AGAINST VIOLATIONS OF THE MAIL OR TELEPHONE ORDER MERCHANDISE RULE

IT IS FURTHER ORDERED that Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors and assigns, and all other persons or entities in active concert or

participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any corporation, subsidiary, division, or other device, or any of them, in connection with the marketing, advertising, promotion, offering for sale or sale of computer equipment or any other product or service, are hereby restrained and enjoined from violating or assisting others in violating any provision of the Mail or Telephone Order Merchandise Rule, 16 C.F.R. Part 435, including, but not limited to:

- A. Soliciting orders for the purchase of goods without a reasonable basis for believing that they can ship the goods within the time stated in the solicitation or, if no time is stated, within (30) days of the solicitation, as required by 16 C.F.R. § 435.1(a)(1);
- B. Failing to give consumers who have ordered goods from Defendants the option to accept a delay or cancel the order upon Defendants' discovery that they are unable to ship within the stated time period or within thirty (30) days if no period was stated, as required by 16 C.F.R. § 435.1(b)(1); and
- C. Failing to deem an order canceled and make a prompt refund, as required by 16 C.F.R. § 435.1(c), where Defendants have not timely shipped merchandise and have failed to give a delay or cancellation option.

III. MONETARY RELIEF

IT IS FURTHER ORDERED that:

- A. Defendants are jointly and severally liable for payment of equitable monetary relief in the amount of \$47,294. This amount, currently being held by Global Payments Inc., shall be delivered to the Federal Trade Commission within two

business days after entry of the Order.

- B. After entry of this Order, all funds paid by or on behalf of Defendants pursuant to this Order shall be deposited into a fund administered by the Commission or its agent to be used for equitable relief, including, but not limited to, consumer redress and any attendant expenses for the administration of any redress fund. Defendants will cooperate fully to assist the Commission in identifying consumers who may be entitled to redress pursuant to this Order. 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 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.
- C. Defendants are hereby required, in accordance with 31 U.S.C. § 7701, to furnish to the Commission their respective taxpayer identification numbers (social security numbers or employer identification numbers), which shall be used for purposes of collecting and reporting on any delinquent amount arising out of

Defendant's relationship with the government.

IV.

RIGHT TO REOPEN

IT IS FURTHER ORDERED that:

- A. The Commission's agreement to, and the Court's approval of, this Order is expressly premised upon the truthfulness, accuracy, and completeness of the financial statements of Defendants Crediamerica Group, Inc., and Felipe Taveras, dated November 2, 2004, and Defendant America Communications Group, Inc., dated December 17, 2004, all of which contain material information relied upon by the Commission in negotiating and agreeing to the terms of this Order.
- B. If, upon motion, this Court should find that Defendants made a material misrepresentation or omitted material information concerning their financial condition, then the Court, without further adjudication, shall enter a modified judgment holding that Defendant liable to the Commission in the amount of \$2,900,000 for consumer redress. This amount shall become immediately due and payable, and interest computed at the rate prescribed under 28 U.S.C. § 1961, as amended, shall immediately begin to accrue on the unpaid balance.
- C. Defendants agree that the facts as alleged in the Complaint filed in this action shall be taken as true in any subsequent litigation filed by the Commission to enforce its rights pursuant to this Order, including, but not limited to, a nondischargeability complaint filed in any bankruptcy proceeding.
- D. Should this Order be modified pursuant to this Paragraph, this Order, in all other

respects, shall remain in full force and effect unless otherwise ordered by this Court. Any proceedings instituted under this Paragraph are in addition to, and not in lieu of, any other civil or criminal remedies as may be provided by law, including any other proceedings that the FTC may initiate to enforce this Order.

V. COMPLIANCE MONITORING

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, Crediamerica Group, Inc., America Communications Group, Inc., and Felipe Taveras, shall each 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 Defendants' 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 of, suppliers to, or employees of Crediamerica Group, Inc., America Communications Group, Inc., and/or Felipe Taveras, or any other entity managed or controlled in whole or in part by Crediamerica Group, Inc., America Communications Group, Inc., and/or

Felipe Taveras, without the necessity of identification or prior notice; and

- C. Crediamerica Group, Inc., America Communications Group, Inc., and Felipe Taveras, 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.

Provided, however, 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)).

VI. COMPLIANCE REPORTING BY DEFENDANTS

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. Felipe Taveras shall notify the Commission of the following:
 - a. Any changes in residence, mailing addresses, and telephone numbers of Felipe Taveras, within ten (10) days of the date of such change;
 - b. Any changes in employment status (including self-employment) of Felipe Taveras and any change in the ownership of Felipe Taveras in any business entity, within ten (10) days of the date of such

change. Such notice shall include the name and address of each business that Felipe Taveras is affiliated with, employed by, creates or forms, or performs services for; a statement of the nature of the business; and a statement of Felipe Taveras' duties and responsibilities in connection with the business or employment; and

c. Any changes in Felipe Taveras' name or use of any aliases or fictitious names; and

2. Crediamerica Group, Inc., America Communications Group, Inc., and Felipe Taveras shall notify the Commission of any changes in corporate structure of Crediamerica Group, Inc., or America Communications Group, Inc., or any business entity that Crediamerica Group, Inc., America Communications Group, Inc., or Felipe Taveras, directly or indirectly controls, or has an ownership interest in, 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 entity; 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 Defendants learn less than thirty (30) days prior to the date

such action is to take place, Defendants 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, Crediamerica Group, Inc., America Communications Group, Inc., and Felipe Taveras shall each 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. For Felipe Taveras:
 - a. The then-current residence address, mailing addresses, and telephone numbers of Felipe Taveras.
 - b. The then-current employment and business addresses and telephone numbers of Felipe Taveras, a description of the business activities of each such employer or business, and the title and responsibilities of Felipe Taveras, for each such employer or business; and
 - c. Any other changes required to be reported under subparagraph A of this Paragraph.
2. For Crediamerica Group, Inc., America Communications Group, Inc., and Felipe Taveras:
 - a. A copy of each acknowledgment of receipt of this Order, obtained pursuant to Paragraph VIII; and
 - b. Any other changes required to be reported under subparagraph A

of this Paragraph.

- C. For the purposes of this Order, Defendants shall, unless otherwise directed by the Commission's authorized representatives, mail all written notifications to the

Commission to:

Regional Director
Federal Trade Commission
225 Peachtree Street, Suite 1500
Atlanta, Georgia 30303

Re: **FTC v. Latin Shopping Network**

- D. For purposes of the compliance reporting and monitoring required by this Order, the Commission is authorized to communicate directly with Defendants.

VII. RECORDKEEPING PROVISIONS

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry of this Order, each Defendant, in connection with any business where: (1) such Defendant is an officer, director, manager, or majority owner, or directly or indirectly manages or controls the business and where (2) the business engages, or assists others engaged in the marketing, advertising, promotion, offering for sale, or sale of computer equipment or other product or service, in or affecting commerce, 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, are hereby restrained and enjoined from failing to create and retain the following records:

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

- C. 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;
- D. Copies of all complaints and refund requests (whether received directly, indirectly or through any third party) and any responses to those complaints or requests;
- E. Copies of all sales scripts, training materials, advertisements, or other marketing materials; and
- F. All records and documents necessary to demonstrate full compliance with each provision of this Order, including but not limited to, copies of acknowledgments of receipt of this Order, required by Paragraph VIII, and all reports submitted to the FTC pursuant to Paragraph VI.

VIII. DISTRIBUTION OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Order, Defendants shall deliver copies of the Order as directed below:

- A. Crediamerica Group, Inc., and America Communications Group, Inc., must deliver a copy of this Order to all their principals, officers, directors, and managers. Crediamerica Group, Inc., and America Communications Group, Inc.,

must deliver copies of this Order to all of their employees, agents, and representatives who engage in conduct related to the subject matter of the Order. For current personnel, delivery shall be within (5) days of service of this Order upon Defendants. For new personnel, delivery shall occur prior to them assuming their responsibilities.

- B. For any business that Felipe Taveras controls, directly or indirectly, or in which Felipe Taveras has a majority ownership interest, Felipe Taveras must deliver a copy of this Order to all principals, officers, directors, and managers of that business. Felipe Taveras must also deliver copies of this Order to all employees, agents, and representatives of that business who engage in conduct related to the subject matter of the Order. For current personnel, delivery shall be within (5) days of service of this Order upon Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities.
- C. For any business where Felipe Taveras is not a controlling person of the business but otherwise engages in conduct related to the subject matter of this Order, Felipe Taveras must deliver a copy of this Order to all principals and managers of such business before engaging in such conduct.
- D. Crediamerica Group, Inc., America Communications Group, Inc., and Felipe Taveras must secure a signed and dated statement acknowledging receipt of the Order, within thirty days of delivery, from all persons receiving a copy of the Order pursuant to this Paragraph.

IX. ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANTS

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.

X. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that:

A. This Court shall retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

B. The expiration of any requirement imposed by this Order shall not affect any other obligation arising under this Order.

C. This action and the relief awarded herein is in addition to and not in lieu of other remedies as may be provided by law, including administrative, civil, and criminal remedies.

There being no just cause for delay, this Stipulated Final Judgment and Order for Permanent Injunction is entered.

DATED this _____ day of _____, 2005.

United States District Court Judge

The parties hereby stipulate and agree to the terms and conditions set forth and consent

to the entry of this Stipulated Final Judgement and Order for Permanent Injunction.

FOR THE PLAINTIFF, FEDERAL TRADE COMMISSION:

By: _____

HAROLD E. KIRTZ
Attorney for Plaintiff
225 Peachtree Street, Suite 1500
Atlanta, Georgia 30303
(404) 656-1357 (telephone)
(404) 656-1379 (facsimile)
hkirtz@ftc.gov

Date

FOR THE DEFENDANTS:

FELIPE TAVERAS

Date

CREDIAMERICA GROUP, INC.
d/b/a LATIN SHOPPING NETWORK,
and AMERICA COMMUNICATIONS GROUP, INC.

By: _____

FELIPE TAVERAS, President and Owner
15835 SW 109th Court
Cutler Ridge, Florida 33157
754-234-4971

Date