

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Hon. John C. Coughenour



02-CV-00294-ORD

FILED ENTERED
LODGED RECEIVED
JUL 1 2003 DJ
AT SEATTLE
CLERK U.S. DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
BY DEPUTY

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FEDERAL TRADE COMMISSION,

Plaintiff,
v.
DILLON SHERIF, *et al.*

Defendants,

Civil No. CV02-0294C

STIPULATED ORDER FOR
PERMANENT INJUNCTION
AND OTHER EQUITABLE
RELIEF AS TO MELISSA
ROBINSON

Plaintiff, the Federal Trade Commission ("Commission"), has filed a complaint under sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act ("Telemarketing Act"), 15 U.S.C. § 6101 *et seq.*, to obtain permanent injunctive relief, rescission of contracts, restitution, disgorgement, and other equitable relief for defendants' deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45 (a), and the FTC's Trade Regulation Rule entitled "Telemarketing Sales Rule" ("TSR" or "Rule"), 16 C.F.R. Part 310. The Commission withdrew its complaint against Saul Somerstein, and the Clerk of the Court entered defaults against defendant Dillon Sherif, a.k.a., Nuraldin Shareef Karim, Dillon Shareef and Dillon Nariman, and relief defendants Nariman Sabri Mikdad, a.k.a. Nariman Sherif, and Amina Mohamad. A Stipulated Preliminary Injunction as to Melissa Robinson was entered on July 10, 2002.

1 The Commission and defendant Melissa Robinson (“defendant” or “defendant
2 Robinson”), having been represented by counsel and acting by and through such counsel, have
3 consented to the entry of this Stipulated Order for Permanent Injunction and Other Equitable
4 Relief without a trial or adjudication of any issue of law or fact herein.

5 NOW, THEREFORE, the Commission and defendant Robinson, having requested the
6 Court to enter this Stipulated Order, it is **ORDERED, ADJUDGED, AND DECREED** as
7 follows:

8 **FINDINGS**

9 1. This is an action by the Commission instituted under Section 13(b) of the FTC
10 Act, 15 U.S.C. § 53(b). Pursuant to this section, the Commission has the authority to seek the
11 relief contained herein.

12 2. The Commission’s complaint states a claim upon which relief may be granted
13 against defendant Robinson under Sections 5(a), 13(b) and 19 of the Federal Trade Commission
14 Act (“FTC Act”), 15 U.S.C. §§ 45(a), 53(b) and 57b, and the Telemarketing and Consumer Fraud
15 and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. § 6101 *et seq.*

16 3. This Court has jurisdiction over the subject matter of this case and all parties
17 hereto. Venue in the Western District of Washington is proper.

18 4. The alleged activities of defendant are in or affecting commerce, as defined in
19 Section 4 of the FTC Act, 15 U.S.C. § 44.

20 5. The parties shall each bear their own costs and attorney’s fees incurred in this
21 action and have waived all claims under the Equal Access to Justice Act, 28 U.S.C. § 2412, and
22 all rights to seek judicial review, or otherwise to challenge the validity of this Stipulated Order.

23 6. Entry of this Stipulated Order is in the public interest.

24 **ORDER**

25 **I.**

26 **PROHIBITED PRACTICES**

27 **IT IS THEREFORE ORDERED** that defendant, her successors and assigns, whether
28 acting directly or through any entity, corporation, subsidiary, division or other device and all

1 persons in active concert or participation with her who receive actual notice of this Order by
2 personal service or otherwise, are hereby restrained and enjoined from:

3 A. Promoting, offering for sale, or selling, directly or indirectly, tickets, chances,
4 interests, shares, or registrations in any foreign lottery to any U.S. resident;

5 B. Purchasing or registering any ticket, chance, interest, or share in any foreign
6 lottery for any U. S. resident;

7 C. Soliciting funds from any U.S. resident in connection with any purported foreign
8 lottery winning, award, or distribution;

9 D. In connection with the advertising, marketing, proposed sale, or sale of any
10 product or service to any U.S. resident, misrepresenting or omitting any fact material to a
11 consumer's decision to purchase defendants' products or services; and

12 E. In connection with telemarketing, as defined in the Telemarketing Sales Rule,
13 16 C.F.R. Part 310 ("the Rule"), a copy of which is attached and incorporated by reference, to
14 any U.S. resident, violating or assisting others to violate any provision of the Rule, including, but
15 not limited to:

- 16 1. Making a false or misleading statement to induce any person to pay for any
17 good or service in violation of Section 310.3(a)(4) of the Rule, 16 C.F.R. §
18 310.3(a)(4); and
- 19 2. Failing to disclose, in a clear and conspicuous manner, before a customer
20 pays for any goods or services, all material restrictions, limitations, or
21 conditions to receive those goods or services, in violation of Section
22 310.3(a)(1)(ii) of the Rule, 16 C.F.R. § 310.3(a)(1)(ii).

23 II.

24 DISCLOSURE OF CONSUMER LISTS

25 **IT IS FURTHER ORDERED** that defendant, and her officers, agents, servants,
26 employees, and attorneys, and all other persons or entities in active concert or participation with
27 her who receive actual notice of this Stipulated Order by personal service or otherwise, are
28 permanently restrained and enjoined from selling, renting, leasing, transferring, or otherwise

1 disclosing the name, address, telephone number, credit card number, bank account number, e-
2 mail address, or other identifying information of any person who paid any money to any
3 defendant, at any time prior to entry of this order, in connection with promoting, offering for sale,
4 selling, or participating in the sale of, directly or indirectly, any interests, holdings, or
5 registrations in any foreign lottery or in any bond program with a lottery feature. Provided,
6 however, that defendant may disclose such identifying information to a law enforcement agency
7 or as required by any law, regulation, or court order.

8 III.

9 CONSUMER REDRESS

10 **IT IS FURTHER ORDERED** that:

11 A. Judgment is entered against defendant in the amount of \$102,000 (USD).

12 Judgment shall be suspended upon:

13 B. Defendant's agreement that the assets or their proceeds already released by the
14 defendant to the Director of Trade Practices (Director) of the Ministry of Public Safety and
15 Solicitor General of British Columbia may be transferred by the Director to the Commission, *and*
16 *provided that* the Director may deduct from this amount any costs of his action against
17 defendants, and any reasonable attorneys' fees incurred by the defendant's attorney or attorneys
18 as approved by the Director, and this Stipulated Order is premised on payment by the Director to
19 the Regional Director, Northwest Region, Federal Trade Commission, of the remaining balance.

20 C. All funds paid to the Commission pursuant to this Paragraph shall be deposited
21 into a fund administered by the Commission or its agent to be used for equitable relief, including
22 but not limited to consumer redress and any attendant expenses for the administration of any
23 redress fund. If the Commission determines in its sole discretion that redress to consumers is
24 wholly or partially impracticable or funds remain after redress is completed, the Commission
25 may apply any remaining funds for such other equitable relief, including consumer information
26 remedies, as it determines to be reasonably related to the defendants' practices alleged in the
27 complaint. Any funds not used for such equitable relief shall be deposited in the United States
28 Treasury as disgorgement. Defendant shall have no right to challenge the Commission's choice

1 of remedies under this Paragraph.

2 **IV.**

3 **RIGHT TO REOPEN**

4 **IT IS FURTHER ORDERED** that, by agreeing to this Stipulated Order, defendant
5 reaffirms and attests to the truthfulness, accuracy, and completeness of the Financial Disclosure
6 Form executed on May 15, 2002. Plaintiff's agreement to this Stipulated Order is expressly
7 premised upon the truthfulness, accuracy, and completeness of defendant's financial condition as
8 represented in the Financial Disclosure Form, which contains material information upon which
9 plaintiff relied in negotiating and agreeing to the terms of this Stipulated Order. If, upon motion
10 by the Commission, this Court finds that defendant failed to disclose any material asset, or
11 materially misrepresented the value of any asset, or made any other material misrepresentation in
12 or omission from the Financial Disclosure Form, the Court shall enter judgment against
13 defendant Robinson, in favor of the Commission, in the amount of \$102,00.00 (USD), minus any
14 amount already paid by the defendant or released to the Director; *Provided, however*, that in all
15 other respects this Stipulated Order shall remain in full force and effect unless otherwise ordered
16 by the Court; and provided further, that proceedings instituted under this Paragraph are in
17 addition to and not in lieu of any other civil or criminal remedies as may be provided by law,
18 including any other proceedings the Commission may initiate to enforce this Stipulated Order.
19 Solely for purposes of this Paragraph, the defendant waives any right to contest any of the
20 allegations in the Commission's complaint.

21 **V.**

22 **COMPLIANCE MONITORING**

23 **IT IS FURTHER ORDERED** that, for the purpose of monitoring and investigating
24 compliance with any provision of this Stipulated Order,

25 A. Within ten (10) days of receipt of written notice from a representative of the
26 Commission, defendant Robinson shall submit additional written reports, sworn to under penalty
27 of perjury; produce documents for inspection and copying; appear for deposition; and/or provide
28 entry during normal business hours to any business location in such defendant's possession or

1 direct or indirect control to inspect the business operation;

2 *Provided* that defendant Robinson, after attempting to resolve a dispute without court
3 action and for good cause shown, may file a motion with this Court seeking an order including
4 one or more of the protections set forth in Fed. R. Civ. P. 26(c).

5 B. In addition, the Commission is authorized to monitor compliance with this
6 Stipulated Order by all other lawful means, including but not limited to the following:

- 7 1. obtaining discovery from any person, without further leave of court, using
8 the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45;
- 9 2. posing as consumers and suppliers to defendant Robinson or her
10 employees, or any other entity managed or controlled in whole or in part
11 by defendant Robinson, without the necessity of identification or prior
12 notice;

13 *Provided* that nothing in this Stipulated Order shall limit the Commission's lawful use of
14 compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to
15 obtain any documentary material, tangible things, testimony, or information relevant to unfair or
16 deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C.
17 § 45(a)(1)).

18 C. Defendant Robinson shall permit representatives of the Commission to interview
19 any employer, consultant, independent contractor, representative, agent, or employee who has
20 agreed to such an interview, relating in any way to any conduct subject to this Stipulated Order.
21 The person interviewed may have counsel present.

22 VI.

23 DISTRIBUTION OF ORDER BY DEFENDANT

24 **IT IS FURTHER ORDERED** that, for a period of two (2) years from the date of entry
25 of this Stipulated Order, defendant Robinson shall deliver a copy of this Order to the principals,
26 officers, directors, managers and employees under defendant Robinson's control for any
27 telemarketing business that (a) employs or contracts for personal services from defendant
28 Robinson and (b) has responsibilities with respect to the subject matter of this Stipulated Order.

1 Defendant Robinson shall secure from each such person a signed and dated statement
2 acknowledging receipt of the Stipulated Order within thirty (30) days after the date of service of
3 the Stipulated Order or the commencement of the employment relationship.

4 **VII.**

5 **COMPLIANCE REPORTING BY DEFENDANT**

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

8 A. For a period of two (2) years from the date of entry of this Stipulated Order,

9 1. Defendant Robinson shall notify the Commission of the following:

10 a. Any changes in defendant's residence, mailing addresses, and
11 telephone numbers, within ten (10) days of the date of such
12 change;

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

20 c. Any changes in defendant's name or use of any aliases or fictitious
21 names;

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

26 1. Any changes required to be reported pursuant to subparagraph (A) above;

27 2. A copy of each acknowledgment of receipt of this Stipulated Order
28 obtained by defendant pursuant to Paragraph VI.

1 C. For the purposes of this Stipulated Order, defendant shall, unless otherwise
2 directed by the Commission's authorized representatives, mail all written notifications to the
3 Commission to:

4 Charles A. Harwood, Director
5 Northwest Region
6 Federal Trade Commission
7 915 Second Ave., Suite 2896
8 Seattle, WA 98174

9 Re: *FTC v. Dillon Sherif, et al.*, Civil Action No. CV02-0294C

10 D. For purposes of the compliance reporting required by this Paragraph, the
11 Commission is authorized to communicate directly with defendant Robinson.

12 VIII.

13 RECORD KEEPING PROVISIONS

14 **IT IS FURTHER ORDERED** that, for a period of three (3) years from the date of entry
15 of this Stipulated Order, defendant Robinson, and defendant's agents, employees, officers,
16 servants, corporations, successors, and assigns, and those persons in active concert or
17 participation with them who receive actual notice of this Stipulated Order by personal service or
18 otherwise, in connection with any business where: (1) defendant Robinson is the majority owner
19 of the business, or directly or indirectly manages or controls the business, and (2) the business is
20 engaged in telemarketing to U.S. residents, or in assisting others engaged in said business, are
21 hereby permanently restrained and enjoined from failing to create and retain, unless otherwise
22 specified:

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

25 B. Personnel records accurately reflecting: the name, address, and telephone number
26 of each person employed in any capacity by such business, including as an independent
27 contractor; that person's job title or position; the date upon which the person commenced work;
28 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

1 the extent such information is obtained in the ordinary course of business;

2 D. Complaints and refund requests (whether received directly, indirectly or through
3 any third party) and any responses to those complaints or requests; and

4 E. Copies of all sales scripts, training materials, advertisements, or other marketing
5 materials.

6 **IX.**

7 **ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANT**

8 IT IS FURTHER ORDERED that defendant Robinson, within five (5) business days of
9 receipt of this Stipulated Order as entered by the Court, must submit to the Commission a
10 truthful sworn statement acknowledging receipt of this Stipulated Order.

11 **X.**

12 **RETENTION OF JURISDICTION**

13 IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for
14 purposes of construction, modification and enforcement of this Stipulated Order.


15 **SO ORDERED**, this ____ day of _____, 2003, at _____.m.

16
17 _____
18 Honorable John C. Coughenour
United States District Judge

19 FOR PLAINTIFF:

20 _____
21 Mary T. Benfield, WSBA # 18835
22 Thomas Rowan, WSBA # 30789
Attorneys for Plaintiff
Federal Trade Commission

23 FOR DEFENDANT:

24 
25 _____
John R. Muenster, WSBA # 6237
26 Attorney for Defendant
Melissa Robinson

27 _____
28 Melissa Robinson
Defendant

1 the extent such information is obtained in the ordinary course of business;

2 D. Complaints and refund requests (whether received directly, indirectly or through
3 any third party) and any responses to those complaints or requests; and

4 E. Copies of all sales scripts, training materials, advertisements, or other marketing
5 materials.

6 IX.

7 ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANT

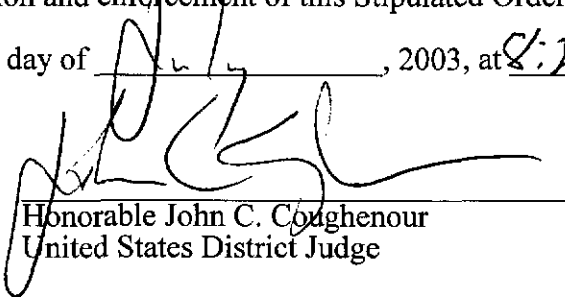
8 IT IS FURTHER ORDERED that defendant Robinson, within five (5) business days of
9 receipt of this Stipulated Order as entered by the Court, must submit to the Commission a
10 truthful sworn statement acknowledging receipt of this Stipulated Order.

11 X.

12 RETENTION OF JURISDICTION

13 IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for
14 purposes of construction, modification and enforcement of this Stipulated Order.

15 SO ORDERED, this 2 day of July, 2003, at 8:20 a.m.

16
17 
18 Honorable John C. Coughenour
United States District Judge

19 FOR PLAINTIFF:

20 Mary T. Benfield
Mary T. Benfield, WSBA # 18835
21 Thomas Rowan, WSBA # 30789
Attorneys for Plaintiff
22 Federal Trade Commission

23 FOR DEFENDANT:

24 John R. Muenster, WSBA # 6237
25 Attorney for Defendant
Melissa Robinson

26
27 Melissa Robinson
Melissa Robinson
28 Defendant