

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

**FILED**

**JAN 05 2011**

CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
BY \_\_\_\_\_  
DEPUTY CLERK

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

ABILI-STAFF, LTD., et al.,

Defendants.

Civil Action No. SA10CA0088 OG

**STIPULATED FINAL JUDGMENT AND ORDER FOR  
PERMANENT INJUNCTION AND MONETARY RELIEF**

The parties, Plaintiff Federal Trade Commission and Defendants Abili-Staff, Ltd., Equitron, LLC, Pamela Jean Barthuly, and Jorg Wilhelm Becker, having agreed to the entry of this Stipulated Final Judgment and Order for Permanent Injunction and Monetary Relief ("Order"), request that the Court enter this Order to resolve all matters in dispute in this action between them.

**THEREFORE, IT IS ORDERED, ADJUDGED, AND DECREED** as follows:

**FINDINGS**

1. This Court has jurisdiction of the subject matter of this case and the parties pursuant to 15 U.S.C. §§ 45(a) and 53(b), and 28 U.S.C. §§ 1331, 1337(a) and 1345.
2. Venue in this District is proper under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b) and (c).

3. The activities of Defendants, as alleged in the Complaint, are in or affecting commerce, as defined in Section 4 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 44.

4. The Complaint states a claim upon which relief may be granted under Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a) and 53(b).

5. Defendants have entered into this Order freely and without coercion. Defendants further acknowledge that they have read the provisions of this Order and are prepared to abide by them.

6. Defendants waive all rights to seek judicial review or otherwise challenge or contest the validity of this Order. Defendants further waive and release any claim they may have against the Commission, and its employees, representatives, and agents.

7. Defendants waive any claims they may have held under the Equal Access to Justice Act, 28 U.S.C. § 2412, amended by Pub. L. 104-121, 110 Stat. 847, 863-64 (1996), concerning the prosecution of this action through the date of the entry of this Order.

8. Defendants, in consenting to the entry of this Order, do not admit the allegations of the Complaint other than the jurisdictional facts.

9. Each party shall bear its own costs.

10. The parties agree, for purposes of facilitating resolution of this matter, that entry of this Order is in the public interest.

#### **DEFINITIONS**

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

1. "Asset" means any legal or equitable interest in, right to, or claim to, any real and personal property, including, but not limited to, "goods," "instruments," "equipment," "fixtures,"

“general intangibles,” “inventory,” “checks,” “notes” (as these terms are defined in the Uniform Commercial Code), and all chattel, leaseholds, contracts, mail or other deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables, funds, reserve funds, cash, cashier’s checks, teller’s checks, money orders, and merchant accounts, wherever located.

2. “Assisting others” includes, but is not limited to: (1) performing customer service functions, including, but not limited to, receiving or responding to consumer complaints; (2) formulating or providing, or arranging for the formulation or provision of, any marketing material; (3) providing names of, or assisting in the generation of lists of, potential customers; (4) performing marketing or billing services of any kind; (5) processing credit and debit card payments; or (6) acting or serving as an owner, officer, director, manager, or principal of any entity.

3. “Corporate Defendants” means Abili-Staff, Ltd. and Equitron, LLC, and their successors and assigns.

4. “Defendants” means the Individual Defendants and the Corporate Defendants, individually, collectively, or in any combination.

5. “Document” is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, Internet sites, Web pages, Web sites, electronic correspondence, including e-mail and instant messages, photographs, audio and video recordings, contracts, accounting data, advertisements (including, but not limited to, advertisements placed on the World Wide Web), FTP Logs, Server Access Logs, USENET Newsgroup postings, World Wide Web pages, books, written or printed records, handwritten notes, telephone logs, telephone scripts, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, appointment books,

computer records, and other data compilations from which the information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

6. **“Commission”** means Federal Trade Commission.

7. **“Individual Defendants”** means Pamela Jean Barthuly and Jorg Wilhelm Becker.

8. **“Person”** means a natural person, organization, or other legal entity, including a corporation, partnership, proprietorship, association, cooperative, or any other group or combination acting as an entity.

9. **“Work-at-Home Opportunity”** means any good, service, plan, or program that is represented, expressly or by implication, to assist an individual in any manner to earn money while working from home or from locations other than the business premises of the Defendant, including, but not limited to, work-at-home job listings offered through Web site memberships.

10. The words **“and”** and **“or”** shall be understood to have both conjunctive and disjunctive meanings.

### ORDER

#### **I. BAN ON MARKETING OR SALE OF WORK-AT-HOME OPPORTUNITIES**

**IT IS ORDERED** that Defendants, whether acting directly or through any other person, corporation, partnership, subsidiary, division, agent, or other device, are permanently restrained and enjoined from:

A. Advertising, marketing, promoting, offering for sale, or selling any Work-at-Home Opportunity; and

B. Assisting others engaged in advertising, marketing, promoting, offering for sale or selling any Work-at-Home Opportunity.

**II. PROHIBITED REPRESENTATIONS RELATING TO ANY GOODS OR SERVICES**

**IT IS FURTHER ORDERED** that Defendants and their officers, agents, servants, employees and attorneys, and all persons in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any corporation, partnership, subsidiary, division, agent or other device, in connection with the advertising, marketing, promotion, offering for sale or sale of any good, service, plan, or program, are permanently restrained and enjoined from misrepresenting, or assisting others in misrepresenting, expressly or by implication, any material fact, including, but not limited to:

A. The total costs to purchase, receive, or use, and the quantity of, the good, service, plan, or program;

B. Any material restriction, limitation, or condition to purchase, receive, or use the good, service, plan, or program, including, but not limited to, misrepresenting any term of a Web site membership;

C. Any material aspect of the nature or terms of any refund, cancellation, exchange, or repurchase policy, including, but not limited to, the likelihood of a consumer obtaining a full or partial refund, or the circumstances in which a full or partial refund will be granted to the consumer; and

D. Any material aspect of the performance, efficacy, nature or other characteristic of the good, service, plan, or program.

**III. MONETARY JUDGMENT**

**IT IS FURTHER ORDERED** that:

A. Judgment for equitable monetary relief is entered jointly and severally against Defendants Abili-Staff, Ltd., Equitron, LLC, Pamela Jean Barthuly, and Jorg Wilhelm Becker, in

the amount of THREE MILLION SIX HUNDRED THIRTY-SIX THOUSAND NINE HUNDRED EIGHTY-THREE DOLLARS (\$3,636,983). *Provided, however,* that this judgment shall be fully suspended upon the Defendants' fulfillment of the obligations in Subsections B, C, D, and E of this Section titled "Monetary Judgment" and subject to the provisions of the Section titled "Right to Reopen."

B. Within ten (10) days of the entry of this Order, Defendants and the third parties identified below are ordered to remit to the Commission, in the form of electronic fund transfers to the Commission or its designated agent, the following assets listed on Appendix A attached to this Order (valued at approximately \$401,369 on July 20, 2010):

1. Randolph-Brooks Federal Credit Union shall transfer to the Commission or its designated agent the entire balance of each of Defendants' accounts held by Randolph-Brooks Federal Credit Union;
2. IBC Bank shall transfer to the Commission or its designated agent the entire balance of each of Defendants' accounts held by IBC Bank;
3. Security Service Federal Credit Union shall transfer to the Commission or its designated agent the entire balance of each of Defendants' accounts held by Security Service Federal Credit Union; and
4. Fox Valley Savings Bank shall transfer to the Commission or its designated agent the entire balance of each of Defendants' accounts held by Fox Valley Savings Bank.

*Provided* that to the extent any identified third party cannot comply with this Subsection without the assistance of Defendants, the third party must, within three (3) business days of receiving this Order, notify Defendants and counsel for the Commission of its inability to

comply. Such notification shall specify the actions by Defendants that are necessary to comply with this Order. Within five (5) days of receipt of such notice, Defendants shall complete any action necessary to facilitate the identified third party's ability to comply with this Subsection. Defendants' failure to complete such action within five (5) days shall be deemed a violation of the Order and interest at the rate prescribed in 28 U.S.C. § 1961 shall immediately begin to accrue.

C. Within ten (10) days of the entry of this Order, Defendants and the third parties identified below are ordered to remit to the Commission, in the form of electronic fund transfers to the Commission or its designated agent, the following assets (valued at approximately \$25,424 on June 3, 2010):

1. PayPal, Inc. shall transfer to the Commission or its designated agent all assets of any of the Defendants that PayPal, Inc. held, controlled, or maintained custody of, as of the date PayPal, Inc. was served with a copy of this Court's February 2, 2010 Temporary Restraining Order with Asset Freeze; and
2. Moneris Solutions, Inc. shall transfer to the Commission or its designated agent all assets of any of the Defendants that Moneris Solutions, Inc. held, controlled, or maintained custody of, as of the date Moneris Solutions, Inc. was served with a copy of this Court's February 2, 2010 Temporary Restraining Order with Asset Freeze.

*Provided* that to the extent any identified third party cannot comply with this Subsection without the assistance of Defendants, the third party must, within three (3) business days of receiving this Order, notify Defendants and counsel for the Commission of its inability to

comply. Such notification shall specify the actions by Defendants that are necessary to comply with this Order. Within three (3) days of receipt of such notice, Defendants shall complete any action necessary to facilitate the identified third party's ability to comply with this Subsection. Defendants' failure to complete such action within three (3) days shall be deemed a violation of the Order and interest at the rate prescribed in 28 U.S.C. § 1961 shall immediately begin to accrue.

D. Within ten (10) days of the entry of this Order, Defendants shall wire transfer to the Commission or its designated agent \$53,033 from Pamela J. Barthuly's account at IBC Bank with the account numbers ending in 0106.

E. Within ten (10) days of the entry of this Order, Defendants shall transfer to the Receiver appointed in the Section titled "Appointment and Duties of Liquidating Receiver" the following personal property disclosed on Pamela Jean Barthuly's and Jorg Wilhelm Becker's Financial Statements signed and dated July 8, 2010:

1. The Bouillon Coins listed in Appendix B attached to this Order (appraised at \$124,492.85 on June 29, 2010);
2. The 2007 Rolex gold watch with a diamond bezel and diamonds on the face, model number 118348 (estimated value \$28,000); and
3. The 2000 Four Winns Horizon 190 boat, VIN # FWNM66441001, Texas Registration #8856JL (estimated value \$3,500).

Defendants shall cooperate fully with the Receiver and take such other steps as the Receiver may require to transfer all dominion, control, and legal and equitable title to all property transferred, including executing any documents and providing any necessary information.



F. Any and all funds, including the principal sum and any accrued interest, held in the registry of the Court related to this lawsuit at the time of the entry of this Order (valued at approximately \$205,588 on March 15, 2010), or deposited into or held in the registry of the Court related to this lawsuit at any time after the entry of this Order, shall be immediately released and turned over to the Commission without further Order of the Court. The funds held in the registry of the Court shall be disbursed in the form of a U.S. Treasury check made payable to the Federal Trade Commission and sent by FedEx overnight delivery to the following address: 1999 Bryan Street, Suite 2150, Dallas, Texas 75248, Attention: Ann LeJeune. The Commission will bear the costs of the overnight delivery. Defendants relinquish all right, claim, and demand to any and all funds, including the principal sum and any accrued interest, deposited or held, now or in the future, in the registry of the Court related to this lawsuit.

G. If Individual Defendants obtain a credit or refund of any federal income taxes or penalties paid for tax year 2009, then Individual Defendants shall promptly pay the Commission the amount of the credit or refund, together with any interest Individual Defendants have earned in connection with the credit or refund.

To ensure Individual Defendants' compliance with this Subsection:

1. Each Individual Defendant shall deliver to the Commission copies of all completed and signed federal income tax returns and all amended returns, including all attached forms, schedules, and statements, that the Individual Defendant files for tax year 2009. These copies shall be delivered to the Commission within ten (10) days after each return or amended return is filed with the IRS; and

2. Within ten (10) days after each Individual Defendant's final date allowed under IRS rules to file an amended federal income tax return for tax year 2009, that Individual Defendant shall sign and submit to the IRS a Form 4506, along with the Form 4506 fee, directing the IRS to send to the Commission copies of that Individual Defendant's original federal income tax return and all amended tax returns filed with the IRS for tax year 2009.

H. Defendants shall not, whether acting directly or through any corporation, partnership, limited liability company, division, subsidiary, trade name, or other entity or device, submit to any federal or state tax authority any tax return, amended tax return, or other official document that takes a deduction for, or seeks a tax refund or any other tax benefit for, the payments made to the Commission pursuant to this Order.

To ensure Defendants' compliance with this Subsection:

1. Each Defendant shall deliver to the Commission copies of all completed and signed federal and state income tax returns and all amended returns, including all attached forms, schedules, and statements, that the Defendant files for each tax year in which payments are made to the Commission pursuant to this Order. These copies shall be delivered to the Commission within ten (10) days after each return or amended return is filed with the IRS or a state tax authority; and
2. Each Defendant shall sign and submit to the IRS a Form 4506, along with the Form 4506 fee, for each tax year in which that Defendant made payments to the Commission under this Order, directing the IRS to send to the Commission copies of that Defendant's original tax return and all

amended tax returns filed with the IRS for that tax year. Each Defendant shall submit the Form 4506 to the IRS for each such year within ten (10) days after the final date that Defendant is allowed under IRS rules to file an amended federal tax return for that tax year.

I. In the event of default on any obligation to make payment under this Order, interest, computed pursuant to 28 U.S.C. § 1961(a), shall accrue from the date of default to the date of payment. In the event such default continues for ten (10) calendar days beyond the date the payment is due, the entire amount of the judgment, less any amounts previously paid pursuant to this Order, together with interest, shall immediately become due and payable. Defendants shall be jointly and severally liable for all payments required by this Order and any interest on such payments.

J. Defendants shall relinquish all dominion, control, and title to the funds paid and assets transferred under this Section to the fullest extent permitted by law. Defendants shall make no claim to or demand for return of the funds, directly or indirectly, through counsel or otherwise.

K. All funds paid 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, restitution and any attendant expenses for the administration of equitable relief. Defendants shall cooperate fully to assist the Commission in identifying consumers who may be entitled to restitution under this Order. In the event that direct restitution to consumers is wholly or partially impracticable, or funds remain after complete restitution has been made, the Commission may apply any remaining funds for 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 equitable relief shall be deposited to the United States Treasury as disgorgement. Defendants shall not have the right to challenge the Commission's choice of remedies or the manner of distribution under this Section. The Commission, in its sole discretion, may use a designated agent to administer consumer restitution.

L. Defendants agree that the facts as alleged in the Complaint filed in this action shall be taken as true without further proof in any bankruptcy case or subsequent civil litigation pursued by the Commission to enforce its rights to any payment or money judgment pursuant to this Order, including but not limited to, a nondischargeability complaint in any bankruptcy case. Defendants further stipulate and agree that the facts alleged in the Complaint establish all elements necessary to sustain an action pursuant to, and that this Order shall have collateral estoppel effect for purposes of, Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A).

M. In accordance with 31 U.S.C. § 7701, Defendants are required, unless they already have done so, to furnish the Commission with taxpayer identifying 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 their relationship with the government. Defendants are further required, unless they already have done so, to provide the Commission with clear, legible, and full-size photocopies of all valid driver's licenses that they possess, which will be used for reporting and compliance purposes.

N. This judgment for equitable monetary relief is solely remedial in nature. No portion of any payments made under the judgment shall be deemed a payment of any fine, penalty, punitive assessment, or forfeiture.

O. Proceedings instituted under this Section are in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including any other proceedings the Commission may initiate to enforce this Order.

#### **IV. RIGHT TO REOPEN**

##### **IT IS FURTHER ORDERED that:**

A. The Commission's agreement to this Order and the Court's approval are expressly premised upon the truthfulness, accuracy, and completeness of the sworn financial statements and supporting documents submitted to the Commission as follows:

1. Sworn financial statement for Defendant Pamela Jean Barthuly signed and dated July 8, 2010, and all attachments, including individual tax returns for tax years 2006-08 and the financial statement of Eagle Fusion, Ltd., signed and dated July 3, 2010;
2. Sworn financial statement for Defendant Jorg Wilhelm Becker signed and dated July 8, 2010, and all attachments, including individual tax returns for tax years 2006-08 and the financial statement of Eagle Fusion, Ltd., signed and dated July 3, 2010;
3. Sworn financial statement for Defendant Abili-Staff, Ltd., and all attachments, signed and dated July 3, 2010; and
4. Sworn financial statement for Defendant Equitron, LLC, and all attachments, signed and dated July 3, 2010.

Each Defendant stipulates that all financial information submitted by that Defendant is truthful, accurate, and complete. The documents submitted contain material information upon which the Commission relied in negotiating and agreeing to the terms of this Order.

B. If, upon motion by the Commission, the Court determines that any Defendant failed to disclose any material asset, materially misrepresented the value of any asset, or made any other material misrepresentation or omission in that Defendant's financial disclosures, the value of which exceeds \$1,000, then the suspension of the judgment, ordered in Subsection A of the Section titled "Monetary Judgment," shall be terminated and the entire judgment amount shall be entered against that Defendant. *Provided, however,* that any such Defendant shall be entitled to offset these judgment amounts by any sums already paid under this Order. The reinstated judgment shall become immediately due and payable by that Defendant, and interest computed at the rate prescribed under 28 U.S.C. § 1961, as amended, shall immediately begin to accrue on any unpaid balance. *Provided, however,* that in all other respects this Order shall remain in full force and effect unless otherwise ordered by the Court; and, *provided further,* that proceedings instituted under this Section would be 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 Commission may initiate to enforce this Order.

**V. APPOINTMENT AND DUTIES OF LIQUIDATING RECEIVER**

**IT IS FURTHER ORDERED** that Michael S. Polsky, Esq. is appointed as Liquidating Receiver ("Receiver") with all the rights and powers of an equity receiver, over the property described in Subsection E of the Section titled "Monetary Judgment" of this Order (collectively, the "Property").

A. Within ninety (90) days of the date of this Order, unless good cause is shown to extend beyond ninety (90) days, the Receiver shall, at reasonable cost and in a commercially reasonable fashion, liquidate the Property. In liquidating the Property, the Receiver shall pay any necessary brokerage fees and taxes from the proceeds. As soon as reasonably possible after

all the Property has been liquidated, the Receiver shall account for the net proceeds derived, and transfer all such net proceeds to the Commission. The Receiver shall make the transfer required by this paragraph by electronic fund transfer in accordance with instructions provided by the Division of Enforcement of the Bureau of Consumer Protection of the Commission.

B. Upon transfer of legal and equitable title and possession, the Receiver is authorized to assume responsibility for management of the Property, including, but not limited to, making disbursements for operating expenses as may be appropriate, undertaking repairs, and taking any other actions necessary to efficiently manage the Property and to maintain its value.

C. The Receiver shall take all necessary action to procure appropriate insurance for the Property, naming the Receiver and the Commission as insureds. The Receiver may as an option keep in force the existing insurance coverage(s), each of which shall name the Receiver and the Commission as additional insureds thereunder.

D. The Receiver shall have necessary power to operate and otherwise manage the Property, including without limitation, the following powers and responsibilities:

1. To take possession of the Property;
2. To supervise and oversee the management of the Property, including making payments and paying taxes as and when the Receiver has funds available from the Property, or from the liquidation of the Property;
3. To employ such counsel, agents, auctioneers, appraisers, accountants, contractors, other professionals, and other such persons as may be necessary in order to carry out his duties as Receiver and to preserve, maintain, and protect the Property;

4. To determine or abrogate, in the Receiver's sole sound business discretion, any or all agreements, contracts, understandings, or commitments entered into by any Defendant with respect to the Property to the extent permitted by applicable law;
5. To open new bank accounts with respect to the Receiver's management and operation of the Property; and
6. To apply to this Court for further directions and for such further powers as may be necessary to enable the Receiver to fulfill his duties.

E. Defendants and their agents, employees, or other representatives are enjoined from interfering in any manner with the Receiver's management and operation of the Property and Defendants and their agents, employees, or other representatives are enjoined and restrained from collecting any profits which are now or hereafter become due with respect to all or any portion of the Property and from interfering in any way with the Commission's or the Receiver's collection of the profits.

F. The Receiver shall not be bound by all or any unsecured contracts, agreements, understandings, or other commitments Defendants had, have, or may have with third parties with respect to the Property, whether oral or written, and the Receiver shall be authorized, by affirmative written ratification executed by the Receiver, to agree to become bound by any such contracts, agreements, understandings, or other commitments, or may agree to enter into new or amended contracts, agreements, understandings, or other commitments.

G. Any and all sums collected by the Receiver over and above those necessary to manage the Property, or those necessary to make payments authorized by this Order, shall be paid to the Commission as directed by the Commission.



H. The Receiver is entitled to reasonable compensation for the performance of duties undertaken pursuant to this Order and for the cost of actual out-of-pocket expenses incurred by him. The Receiver's compensation and the compensation of any persons hired by him are to be paid solely from the Property and the proceeds of the sale of the Property, and such payments shall have priority over all other distributions, except for any transfer fees, recording fees, or other payments owed through the transfer of the Property at the time of its sale.

I. The Receiver shall keep a true and accurate account of any and all receipts and expenditures and file with the Court a Receivership Report under oath, accurately identifying all such revenues received and expenditures made, including adequately detailed information concerning income, expenses, payables, and receivables. The Receivership Report shall be filed as soon as possible after the Property has been liquidated. The Receivership Report shall be served by the Receiver on the Commission and Defendants, and their respective counsel.

J. The duties of the Receiver shall terminate upon the final transfer of all funds to the Commission pursuant to this Section. At the termination of the Receiver's duties, the Receiver shall transfer any unliquidated right, title, and interest in the Property to the Commission. The Receiver shall file his application for fees within thirty (30) days of the filing of the Receivership Report, unless good cause is shown to extend beyond thirty (30) days. The Receiver shall not increase the fees or rates used as the bases for such fee applications without prior approval of the Commission and the Court. Defendants shall have no right to object to the Receiver's fees or compensation. Absent a violation of this Order that causes the Receiver to incur fees or expenses, Defendants shall not be liable for the Receiver's fees or expenses beyond the amount paid pursuant to the Section titled "Monetary Judgment."

## VI. CONSUMER INFORMATION

**IT IS FURTHER ORDERED** that Defendants, and each of their agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise, are permanently restrained and enjoined from:

A. Disclosing, using, or benefitting from customer information, including the name, address, telephone number, email address, Social Security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), of any person which any Defendant obtained prior to entry of this Order in connection with the advertising, marketing, promotion, or offering of Work-at-Home Opportunities; and

B. Failing to dispose of customer information in all forms in their possession, custody, or control within thirty (30) days after entry of this Order. Disposal shall be by means that protect against unauthorized access to the customer information, such as by burning, pulverizing, or shredding any papers, and by erasing or destroying any electronic media, to ensure that the customer information cannot practicably be read or reconstructed.

*Provided, however,* that customer information need not be disposed of, and may be disclosed, to the extent requested by a government agency or required by a law, regulation, or court order.

## VII. LIFTING OF ASSET FREEZE

**IT IS FURTHER ORDERED** that the freeze of Defendants' assets set forth in the Preliminary Injunction, entered by this Court on March 2, 2010, shall be lifted to the extent

necessary to turn over Defendants' assets as required by the Section titled "Monetary Judgment," and upon completion of the turn-over, shall be lifted permanently.

#### **VIII. COMPLIANCE MONITORING**

**IT IS FURTHER ORDERED** that, for the purpose of (i) monitoring and investigating compliance with any provision of this Order, and (ii) investigating the accuracy of any Defendant's financial statements upon which the Commission's agreement to this Order is expressly premised:

A. Within ten (10) days of receipt of written notice from a representative of the Commission, Defendants each shall submit additional written reports, which are true and accurate and sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and provide entry during normal business hours to any business location in each Defendant's possession or direct or indirect control to inspect the business operation;

B. In addition, the Commission is authorized to use all other lawful means, including but not limited to:

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, 45 and 69;
2. having its representatives pose as consumers and suppliers to Defendants, their employees, or any other entity managed or controlled in whole or in part by any Defendant, without the necessity of identification or prior notice; and

C. Defendants each 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)).

#### **IX. COMPLIANCE REPORTING**

**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. Each Individual Defendant shall notify the Commission of the following:
    - a. Any changes in Defendant's residence, mailing addresses, and telephone numbers, within ten (10) days of the date of the change;
    - b. Any changes in Defendant's employment status (including self-employment), and any change in Defendant's ownership in any business entity within ten (10) days of the date of the change. The notice shall include the name and address of each business that Defendant is affiliated with, employed by, creates or forms, or performs services for; a detailed description of the nature of the business; and a detailed description of Defendant's duties and responsibilities in connection with the business or employment; and

- c. Any changes in Defendant's name or use of any aliases or fictitious names within ten (10) days of the date of the change; and
2. Defendants shall notify the Commission of any changes in structure of the Corporate Defendants or any business entity that any Defendant directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under this Order, including but not limited to incorporation or other organization; a dissolution, assignment, sale, merger, or other action; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; or a change in the business name or address, at least thirty (30) days prior to the change, *provided that*, with respect to any change in the business entity about which a Defendant learns less than thirty (30) days prior to the date the action is to take place, Defendant 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 and annually thereafter for a period of five (5) years, Defendants each shall provide a written report to the Commission, which is true and accurate and 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 each Individual Defendant:
  - a. Individual Defendant's then-current residence address, mailing addresses, and telephone numbers;

- b. Individual Defendant's then-current employment status (including self-employment), including the name, addresses, and telephone numbers of each business that Individual Defendant is affiliated with, employed by, or performs services for; a detailed description of the nature of the business; and a detailed description of Individual Defendant's duties and responsibilities in connection with the business or employment; and
- c. Any other changes required to be reported under Subsection A of this Section.

2. For all Defendants:

- a. a copy of each acknowledgment of receipt of this Order, obtained pursuant to the Section titled "Distribution of Order," and
- b. any other changes required to be reported under Subsection A of this Section.

C. Each Defendant shall notify the Commission of the filing of a bankruptcy petition by the Defendant within fifteen (15) days of filing;

D. For the purposes of this Order, Defendants shall, unless otherwise directed by the Commission's authorized representatives, send by overnight courier (not the U.S. Postal Service) all reports and notifications required by this Order to the Commission to the following address:

Associate Director for Enforcement  
Bureau of Consumer Protection  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580  
RE: *FTC v. Abili-Staff, Ltd., et al.*, (X100021)

*Provided* that, in lieu of overnight courier, Defendants may send the reports or notifications by first-class mail, but only if Defendants contemporaneously send an electronic version of the report or notification to the Commission at: DEBrief@ftc.gov.

E. For purposes of the compliance reporting and monitoring required by this Order, the Commission is authorized to communicate directly with each Defendant.

#### **X. RECORD KEEPING**

**IT IS FURTHER ORDERED** that, for a period of eight (8) years from the date of entry of this Order, Corporate Defendants and the Individual Defendants for any business for which they, individually or collectively, are the majority owner or directly or indirectly controls, are 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 the revenues;

B. Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by the 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 the information is obtained in the ordinary course of business;

D. Complaints and refund requests (whether received directly or indirectly, as through a 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 Order required by the Sections titled "Distribution of Order" and "Acknowledgment of Receipt of Order" and all reports submitted to the FTC pursuant to the Section titled "Compliance Reporting."

**XI. DISTRIBUTION OF ORDER**

**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. Corporate Defendants: Each Corporate Defendant must deliver a copy of this Order to: (1) all of its principals, officers, directors, and managers; (2) all of its employees, agents, and representatives who engage in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled "Compliance Reporting." For current personnel, delivery shall be within five (5) days of service of this Order upon the Corporate Defendants. For new personnel, delivery shall occur prior to them assuming their responsibilities. For any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled "Compliance Reporting," delivery shall be at least ten (10) days prior to the change in structure.

B. Individual Defendants as control person: For any business that an Individual Defendant controls, directly or indirectly, or in which the Individual Defendant has a majority ownership interest, the Individual Defendant must deliver a copy of this Order to: (1) all principals, officers, directors, and managers of that business; (2) all employees, agents, and representatives of that business who engage in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure set forth in Subsection A.2 of



the Section titled "Compliance Reporting." For current personnel, delivery shall be within five (5) days of service of this Order upon the Individual Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities. For any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled "Compliance Reporting," delivery shall be at least ten (10) days prior to the change in structure.

C. Individual Defendants as employee or non-control person: For any business where an Individual Defendant is not a controlling person of a business but otherwise engages in conduct related to the subject matter of this Order, the Individual Defendant must deliver a copy of this Order to all principals and managers of the business before engaging in such conduct.

D. Defendants must secure a signed and dated statement acknowledging receipt of the Order, within thirty (30) days of delivery, from all persons receiving a copy of the Order pursuant to this Section.

## **XII. ACKNOWLEDGMENT OF RECEIPT OF ORDER**

**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.

## **XIII. RETENTION OF JURISDICTION**

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

**XIV. ENTRY OF ORDER**

**IT IS FURTHER ORDERED** that there is no just reason for delay and the Clerk of Court is directed to enter this Order immediately.

DATE: 1-5-2011

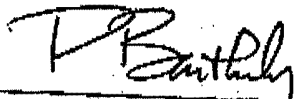
*J. M. S.*  
UNITED STATES DISTRICT JUDGE

The parties, by their respective counsel, consent to the terms and conditions of the Stipulated Final Judgment and Order for Permanent Injunction and Monetary Relief as set forth above and consent to the entry of it.

SO STIPULATED AND AGREED:

FOR THE DEFENDANTS:

FOR ABILI-STAFF, LTD.



By: Pamela Jean Barthuly, President  
of General Partner Equitron, LLC

Date: 9-28-10

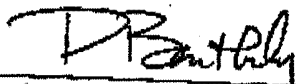
FOR EQUITRON, LLC



By: Pamela Jean Barthuly, President

Date: 9-28-10

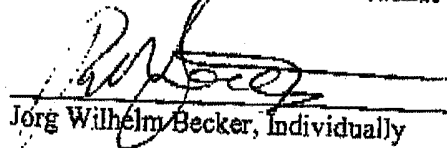
FOR PAMELA JEAN BARTHULY



Pamela Jean Barthuly, Individually

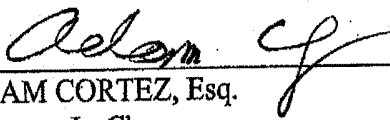
Date: 9-28-10

FOR JORG WILHELM BECKER

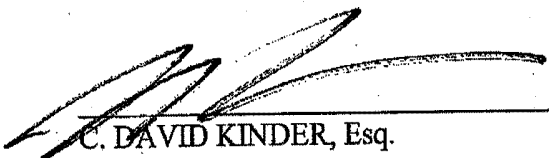
  
Jorg Wilhelm Becker, Individually

Date: 9-28-2010

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**FOR PLAINTIFF FEDERAL TRADE COMMISSION:**

WILLARD K. TOM  
General Counsel

DEANYA T. KUECKELHAN  
Regional Director



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Date: December 23, 2010

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ATTORNEYS FOR PLAINTIFF  
FEDERAL TRADE COMMISSION

## APPENDIX A

Bank / Account Holder	Acct # (last 4)	Balance*
<b>Randolph-Brooks Federal Credit Union</b>		
Pamela J. Barthuly	548-2 (Savings)	\$ 12.45
Pamela J. Barthuly	548-2 (Checking)	\$ 333.88
Pamela J. Barthuly	548-2 (CD)	\$ 67,618.72
<b>IBC Bank</b>		
Abili Staff LTD	0201	\$ 78,446.29
Equitron LLC	9901	\$ 4,075.94
Pamela J Barthuly or Jorg W Becker	7716	\$ 3,009.46
Abili Staff LTD	8655	\$ 19,656.66
Pamela J Barthuly	6073	\$ 7,460.96
Jorg W Becker	2386	\$ 5,665.61
Jorg W Becker	1211	\$ 165,044.03
Jorg W Becker	1951	\$ 9,510.62
Jorg Becker	3812	\$ 813.97
<b>Security Service Federal Credit Union</b>		
P Barthuly - American Home Labor	1000	\$ 101.98
P Barthuly	1075	\$ 7,752.75
P Barthuly	2000	\$ 55.58
P Barthuly	2075	\$ 23,022.96
<b>Fox Valley Savings Bank</b>		
P J Barthuly and J Becker	9737	\$ 8,787.96
<i>*Value as of July 20, 2010.</i>		

## Appendix B

June 29<sup>th</sup> appraisal by line:

1) 2 silver eagles in anniversary boxes	\$37.60
2) 1 silver eagle in Christmas box	\$18.80
3) 2 silver eagles loose	\$37.60
4) 18 Proof sets, all silver but one. 1992-2009	\$638.80
5) \$133 face value coins in rolls	\$133.00
6) 8 ten ounce silver bars - Liberty Mint	\$1416.00
7) Bag of silver dimes - 7,391 pieces	\$9238.75
8) 1 box containing 340 halves, 28 once oz rounds, 1 silver eagle, and a couple misc coins	\$4767.60
9) 13 gold maple leaf 1 ounce coins	\$16,003.00
10) 32 one ounce gold coins: 23 Krugerrands, 7 Philharmonics, 2 Isle of man cats	\$39,202.00
11) Box of silver quarters 580 pieces	\$1812.50
12) Bag of silver dimes 499 pices	\$623.75
13) 2 Proof silver eagle 2000	\$96.00
14) 22 one ounce Krugerrands	\$26,972.00
15) Bag of silver half dollars 210 pieces	\$1312.50
16) 1 gold bar 20 grams	\$766.15
17) 9 1/10 <sup>th</sup> ounce gold eagles	\$1026.90
18) 3 - ½ ounce gold eagles, and 1 one oz gold eagle	\$3102.50
19) 1 one ounce gold eagle	\$1241.00
20) 11 once ounce gold maple leafs	\$13,541.00
21) Bag of dimes 857 pieces, plus 4 quarters	\$1083.75
22) Bag of misc. silver coins, including Mexican silver, 925 silver dimes, 2 dollars, etc.	\$1421.65