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**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI**

FEDERAL TRADE COMMISSION,

Plaintiff,

GRANT SEARCH, INC., *et al.*

Defendants.

Civil No. 02-4174-CV-C-NKL

**STIPULATED JUDGMENT
FOR PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF**

Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), has filed a

1 NOW, THEREFORE, the Commission and defendants having requested the Court to
2 enter this Stipulated Judgment, it is **ORDERED, ADJUDGED, AND DECREED** as follows:

3
4 **FINDINGS**

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

8 2. The Commission's complaint states a claim upon which relief may be granted
9 against defendants under Sections 5(a), 13(b) and 19 of the Federal Trade Commission Act
10 ("FTC Act"), 15 U.S.C. §§ 45(a), 53(b) and 57b, and the Telemarketing and Consumer Fraud
11 and Abuse Prevention Act ("Telemarketing Act"), 15 U.S.C. § 6101 *et seq.*

12 3. This Court has jurisdiction over the subject matter of this case and all parties
13 hereto. Venue in the Western District of Missouri is proper.

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

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

20 6. This Stipulated Judgment does not constitute, and shall not be interpreted to
21 constitute, either an admission by defendants or a finding by the Court that defendants have
22 engaged in any violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), the Telemarketing
23 Sales Rule, 16 C.F.R. Part 310, or any other law or regulation.

24 7. Entry of this Stipulated Judgment is in the public interest.
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1 including but not limited to consumer redress and any attendant expenses for the administration
2 of any redress fund. If the Commission determines in its sole discretion that redress to
3 consumers is wholly or partially impracticable or funds remain after redress is completed, the
4 Commission may apply any remaining funds for such other equitable relief, including consumer
5 information remedies, as it determines to be reasonably related to the defendants' practices
6 alleged in the complaint. Any funds not used for such equitable relief shall be deposited in the
7 United States Treasury as disgorgement. Defendants shall have no right to challenge the
8 Commission's choice of remedies under this Paragraph.

9 C. If defendants fail to pay the Commission the redress amount as set forth above,
10 the Commission shall provide notification of such failure by overnight courier to defendants'
11 attorney Jason L. Call, Esq., Carson & Coil, P.C., Jefferson City, Missouri, and if thereafter full
12 payment of the redress amount is not received by the Commission within 30 days of the
13 notification, the full judgment amount of \$2,656,694.00, less the sum of any amount already paid
14 to the Commission, shall immediately become due and payable by defendants to the
15 Commission, and interest computed at the rate prescribed under 28 U.S.C. § 1961, as amended,
16 shall immediately begin to accrue on the unpaid balance.

17 18 **V. RIGHT TO REOPEN**

19 **IT IS FURTHER ORDERED** that, by agreeing to this Stipulated Judgment, defendants
20 reaffirm and attest to the truthfulness, accuracy, and completeness of the Financial Disclosure
21 Forms executed on August 24, 26, and 29, 2002. Plaintiff's agreement to this Stipulated
22 Judgment is expressly premised upon the truthfulness, accuracy, and completeness of
23 defendants' financial condition as represented in the Financial Disclosure Forms referenced
24 above, which contain material information upon which plaintiff relied in negotiating and
25 agreeing to the terms of this Stipulated Judgment. If, upon motion by the Commission, this Court
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1 finds that one or more defendants failed to disclose any material asset, or materially
2 misrepresented the value of any asset, or made any other material misrepresentation in or
3 omission from the Financial Disclosure Forms, the Court shall enter judgment against the
4 offending defendants, in favor of the Commission, in the amount of \$2,656,694.00, less any
5 amount already paid to the Commission; *provided, however*, that in all other respects this
6 Stipulated Judgment shall remain in full force and effect unless otherwise ordered by the Court;
7 and provided further, that proceedings instituted under this Paragraph are in addition to and not
8 in lieu of any other civil or criminal remedies as may be provided by law, including any other
9 proceedings the Commission may initiate to enforce this Stipulated Judgment. Solely for
10 purposes of this Paragraph, the defendant waives any right to contest any of the allegations in
11 the Commission's complaint.

12 13 **VI. DISSOLUTION OF ASSET FREEZE**

14 **IT IS FURTHER ORDERED** that upon entry of this Stipulated Judgment, the freeze
15 against all of defendants' assets ordered by the Court on August 15, 2002, and extended
16 thereafter, shall be lifted.

17 **VII. RETURN OF MAIL**

18 **IT IS FURTHER ORDERED** that, for at least 90 days after entry of this Stipulated
19 Judgment, defendants will return, or arrange to have returned, to the senders all consumer mail
20 received by Grant Search, Inc., or Grant Pac, Inc., on or after August 15, 2002, including all
21 such mail delivered to a U.S. Post Office or private mail box address.

22 23 **VIII. ACKNOWLEDGMENT OF RECEIPT OF JUDGMENT BY DEFENDANTS**

24 **IT IS FURTHER ORDERED** that, within five (5) business days after receipt by
25 defendants of this Stipulated Judgment as entered by the Court, defendants shall submit to the
26 Commission a truthful sworn statement, in the form shown on Attachment A, that shall
27 acknowledge receipt of this Stipulated Judgment.

1 **IX. MONITORING COMPLIANCE OF SALES PERSONNEL**

2 **IT IS FURTHER ORDERED** that defendants, in connection with any business where
3 (1) a defendant is the majority owner of the business or directly or indirectly manages or
4 controls the business, and where (2) the business is engaged in telemarketing or in assisting
5 others engaged in said business, are hereby permanently restrained and enjoined from:

6 A. Failing to take reasonable steps sufficient to monitor and ensure that all
7 employees and independent contractors engaged in sales or other customer service functions
8 comply with Paragraphs I and II of this Stipulated Judgment. Such steps shall include adequate
9 monitoring of sales presentations or other calls with customers, and shall also include, at a
10 minimum, the following: (1) listening to the oral representations made by persons engaged in
11 sales or other customer service functions; (2) establishing a procedure for receiving and
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1 contractors or otherwise, immediately upon employing or retaining any such persons, for any
2 business where

- 3 1. a defendant is the majority owner of the business or directly or indirectly
4 manages or controls the business, and where
- 5 2. the business is engaged in telemarketing or assisting others engaged in
6 telemarketing;

7 B. Maintain for a period of three (3) years after creation, and upon reasonable
8 notice, make available to representatives of the Commission, the original signed and dated
9 acknowledgments of the receipt of copies of this Judgment, as required in Subsection A. of this
10 Paragraph.

11
12 **XI. COMPLIANCE REPORTING BY DEFENDANTS**

13 **IT IS FURTHER ORDERED** that, in order that compliance with the provisions of this
14 Stipulated Judgment may be monitored:

15 A. For a period of five (5) years from the date of entry of this Stipulated Judgment,
16 defendants shall notify the Commission of the following:

- 17 1. Any changes in any individual defendant’s residence, mailing address
18 and telephone number, within thirty (30) days of the date of such change;
- 19 2. Any changes in any individual defendant’s employment status (including
20 self-employment) within thirty (30) days of such change. Such notice
21 shall include the name and address of each business that such defendant
22 is affiliated with or employed by, a statement of the nature of the
23 business, and a statement of such defendant's duties and responsibilities
24 in connection with the business or employment; and

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3. Any proposed change in the structure of any business entity owned or controlled by any defendant, such as creation, incorporation, dissolution, assignment, sale, merger, creation, dissolution of subsidiaries, or any other change that may affect compliance obligations arising out of this Stipulated Judgment, thirty (30) days prior to the effective date of any proposed change;

B. One hundred eighty (180) days after the date of entry of this Stipulated Judgment, defendants shall provide a written report to the FTC, sworn to under penalty of perjury, setting forth in detail the manner and form in which the defendants have complied and are complying with this Stipulated Judgment. This report shall include, but not be limited to:

1. The individual defendants' then current residence addresses and telephone numbers;
2. The individual defendants' then current employment, business addresses and telephone numbers, a description of the business activities of each such employer, and defendant's title and responsibilities for each employer;
3. A copy of each acknowledgment of receipt of this Stipulated Judgment

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

4 Regional Director
5 Federal Trade Commission
6 915 Second Avenue, Room 2896
7 Seattle, WA 98174
8 Re: *FTC v. Grant Search, Inc., et al.*

9 E. For the purposes of this Paragraph, "employment" includes the performance of
10 services as an employee, consultant, or independent contractor; and "employers" include any
11 individual or entity for whom any defendant performs services as an employee, consultant or
12 independent contractor.

13 F. For purposes of the compliance reporting required by this Paragraph, the
14 Commission is authorized to communicate directly with defendants.

15 **XII. RECORD KEEPING**

16 **IT IS FURTHER ORDERED** that:

17 A. For a period of eight (8) years from the date of entry of this Stipulated
18 Judgment, defendants, and defendants' agents, employees, officers, servants, corporations,
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telephone number of each person employed in any capacity by such business, including as an independent contractor; that person's job or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;

- 3. Customer files containing the names, addresses, telephone numbers, dollar amounts paid, quantity of items or services purchased, and

1 B. To interview the officers, directors, and employees, including all personnel
2 involved in responding to consumer complaints or inquiries, and all sales personnel, whether
3 designated as employees, consultants, independent contractors or otherwise, of any business to
4 which Subsection A. of this Paragraph applies, concerning matters relating to compliance with
5 the terms of this Stipulated Judgment. The person interviewed may have counsel present.

6 *Provided* that, upon application of the Commission and for good cause shown, the Court
7 may enter an *ex parte* order granting immediate access to defendants' business premises for the
8 purposes of inspecting and copying all documents relevant to any matter contained in this
9 Stipulated Judgment.

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11 **XIV. COMMISSION'S AUTHORITY TO MONITOR COMPLIANCE**

12 **IT IS FURTHER ORDERED** that the Commission is authorized to monitor defendants'
13 compliance with this Stipulated Judgment by all lawful means including, but not limited to, the
14 following means:

15 A. The Commission is authorized, without further leave of court, to obtain
16 discovery from any person in the manner provided by Chapter V of the Federal Rules of Civil
17 Procedure, Fed. R. Civ. P. 26 - 37, including the use of compulsory process pursuant to Fed. R.
18 Civ. P. 45, for the purpose of monitoring and investigating defendants' compliance with any
19 provision of this Stipulated Judgment;

20 B. The Commission is authorized to use representatives posing as consumers or
21 suppliers to defendants, defendants' employees, or any other entity managed or controlled in
22 whole or in part by a defendant, without the necessity of identification or prior notice; and

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1 C. Nothing in this Stipulated Judgment shall limit the Commission's lawful use of
2 compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49 and 57b-1, to
3 investigate whether defendants have violated any provision of this Stipulated Judgment or Section 5
4 of the FTC Act, 15 U.S.C. § 45.

5 **XV. RETENTION OF JURISDICTION**

6 **IT IS FURTHER ORDERED** that this Court will retain jurisdiction of this matter for the
7 purpose of enabling any of the parties to this Stipulated Judgment to apply to the Court at any time
8 for such further orders or directives as may be necessary or appropriate for the interpretation or
9 modification of this Stipulated Judgment, for the enforcement of compliance therewith or the
10 punishment of violations thereof.

11 **SO ORDERED**, this 7th day of July, 2003.

12
13 s/ NANETTE K. LAUGHREY
14 Honorable Nanette K. Laughrey
United States District Judge

15 The parties, by their respective counsel, hereby consent to the terms and conditions of the
16 Stipulated Judgment as set forth above and consent to entry thereof. Defendants waive any rights
17 that may arise under the Equal Access to Justice Act, 28 U.S.C. § 2412, amended by Pub. L. 104-
18 121, 110 Stat. 847, 863-64 (1996).

19
20 DATED: 3/24, 2003 /s/
21 STEVEN G. LEVINE, individually and as
22 president of Grant Search, Inc.

23 DATED: 3/26, 2003 /s/
24 SCOTT STETTNIHS, individually and as
vice-president of Grant Search, Inc.

25 DATED: 3/26, 2003 /s/
26 SUNDAY R. LEVINE, individually and
as president of Grant Pac, Inc.

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DATED: 4/24, 2003 25 /s/

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