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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

Federal Trade Commission,

Plaintiff,

v.

National Health Care Financing Administration (HHS, HCFA) and its (HHS, HCFA) (HHS, HCFA), et al.

1 Jr., Debra Abeyta, Larry Welli, and Richard Savard have engaged in and are
2 likely to engage in acts and practices that violate Section 5(a) of the FTC Act, 15
3 U.S.C. § 45(a), and the Franchise Rule.

4 6. Corporate Defendants and Individual Defendants have transferred substantial
5 amounts of money they obtained from consumers to Relief Defendant, Darlene
6 Savard, and she has no legitimate claim to those funds.

7 7. There is no genuine dispute as to any material fact. As a matter of law, Plaintiff
8 is entitled to entry of summary judgment against Defendants and to a permanent
9 injunction against the Individual Defendants and Corporate Defendants.

10 8. Judgment in the amount of \$9,298,447.29 is hereby entered against the Corporate
11 Defendants and Individual Defendants, jointly and severally, as provided in
12 Section IV.

13 9. Judgment is hereby entered against Relief Defendant Darlene Savard in the
14 amount of \$568,242.93.

15 10. Entry of this order is in the public interest.

16 DEFINITIONS

17 1. "Assets" means any legal or equitable interest in, right to, or claim to, any real
18 and personal property, including, but not limited to, chattel, goods, instruments,
19 equipment, fixtures, general intangibles, inventory, checks, notes, leaseholds,
20 effects, contracts, mail or other deliveries, shares of stock, lists of consumer
21 names, accounts, credits, premises, receivables, funds, and cash, wherever
22 located, whether in the United States or abroad;

23 2. "Business venture" means any written or oral business arrangement, however
24 denominated, regardless of whether covered by the Franchise Rule, which
25 consists of the payment of any consideration for:
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1 if necessary, through detection devices into reasonably usable form. A draft or
2 non-identical copy is a separate document within the meaning of the term.

3
4 I. ~~any person who, in any way, knowingly or unknowingly, in violation of any applicable law, rule, or regulation, obtains, attempts to obtain, or discloses, in whole or in part, any information, data, or document that is protected by or derived from a system of information that is exempt from disclosure under the Freedom of Information Act, shall be liable to the United States for damages, including reasonable attorneys' fees, and any person who discloses such information, data, or document shall be liable to the United States for damages, including reasonable attorneys' fees, and any person who discloses such information, data, or document shall be liable to the United States for damages, including reasonable attorneys' fees.~~

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1 permanently restrained and enjoined from making any material misrepresentation or
2 assisting others in making any material misrepresentation, either expressly or by
3 implication, to any prospective purchaser of a business venture, including but not
4 limited to, the following:

5 A. that consumers who purchase business ventures are likely to earn
6 substantial income;

7 B. that references or other individuals have purchased a business venture
8 and/or will provide reliable descriptions of experiences with the business venture;

9 C. that consumers who purchase a business venture will be provided with
10 pre-screened locations or accounts;

11 D. that consumers who purchase a business venture will be able to begin
12 operating their businesses within a certain period of time.

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1 \$568,242.93 with post-judgment interest at the legal rate, for equitable monetary relief,
2 including but not limited to consumer redress and disgorgement, and for paying any
3 attendant expenses of administering any redress fund. The monetary judgment set
4 forth in Paragraph B of this section is enforceable against any assets owned
5 individually, jointly by or held on behalf of, for the benefit of, or in trust by or for the
6 Relief Defendant;

7 C. Defendants relinquish all right, title, and interest to: (1) all frozen assets
8 held by or on behalf of the Receiver or receivership estate, or the Commission; (2) all
9 assets subject to claims by the Receiver, or the receivership estate, or the Commission
10 pursuant to the TRO and Preliminary Injunction previously entered in this case;

11 D. The Commission may apply any or all funds received from the
12 Defendants and the Receiver pursuant to this Order, and any interest received thereon,
13 to a consumer redress program and to related administrative expenses. Consumers
14 shall be entitled to a claim for redress monies, or a pro rata claim if insufficient funds
15 are available, in the following amounts: (1) Consumers who purchased Defendants'
16 business opportunity but did not receive any vending machines from Defendants will
17 be entitled to claim the total amount of money they paid to Defendants; and (2)
18 Consumers who purchased Defendants' business opportunity and received vending
19 machines will be entitled to claim the amount of money they paid to Defendants less the
20 cost of the machines to Defendants. If the Commission determines a consumer redress
21 program is not feasible, or if there are funds remaining after full implementation of the
22 redress plan, the Commission shall deposit these funds into the United States Treasury.
23 Defendants shall have no right to challenge the Commission's choice of remedies under
24 this Paragraph;

25 E. All amounts the Receiver has in Receivership accounts and in segregated
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1 plus such additional assets that the Receiver is hereafter able to marshal. Such assets
2 shall be used to reimburse, upon application to and approval by the Court, the Receiver
3 for his reasonable and necessary costs and expenses in administering and winding up
4 the receivership estate. Upon termination of the receivership and final payment to the

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1 the Corporate Defendants, cancel the Corporate Defendants' contracts,
2 collect on amounts owed to the Corporate Defendants, and take such
3 other steps as may be necessary to terminate and dissolve
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1 reasonably available, the Receiver shall arrange for records sufficient to
2 ascertain the funds that an individual consumer paid to the Corporate
3 Defendants, and any refund payments that the Corporate Defendants
4 made to an individual consumer to be retained for a minimum of one year
5 from the entry of this Permanent Injunction. Provided, however, that to
6 safeguard the privacy of consumers, records containing personal financial
7 information shall be shredded, incinerated, or otherwise disposed of in a
8 secure manner. For records that must be retained, the Receiver may elect
9 to retain records in their original form, or to retain photographic or
10 electronic copies;
11

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13 D. Continue to take all steps necessary to secure each location from which the
14 Corporate Defendants operated their business;

15 E. Continue to perform all acts necessary or advisable to complete an
16 accounting of the assets, and prevent unauthorized transfer, withdrawal,
17 or misapplication of assets;

18
19 F. Make payments and disbursements from the Receivership estate that are
20 necessary or advisable for carrying out the directions of, or exercising the
21 authority granted by, this Permanent Injunction. The Receiver shall apply
22 to the Court for prior approval of any payment of any debt or obligation
23 incurred by the Corporate Defendants prior to the date of entry of the
24 temporary restraining order in this action, except payments that the
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Receiver deems necessary or advisable to secure and liquidate assets of the Corporate Defendants, such as rental payments or payment of liens;

G. Enter into contracts and purchase insurance as advisable or necessary;

H. Perform all incidental acts that the Receiver deems to be advisable or necessary, which includes retaining, hiring, or dismissing any employees, independent contractors, or agents;

I. Continue to institute, compromise, adjust, appear in, intervene in, or become party to such actions or proceedings in state, federal, or foreign courts or arbitration proceedings as the Receiver deems necessary and advisable to carry out the Receiver's mandate under this Permanent

Injunction, including but not limited to 0.83 0 Td(tsi)Tj1.17 0 Td(ted)Tj1.42 0 Td(to, a)Tj.

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the Corporate Defendants, and make all payments and disbursements
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1 Report. If subsequent actions (such as the completion of tax returns or
2 further actions to recover funds for the Receivership) are appropriate, the
3 Receiver shall file additional report or reports (the “Supplemental
4 Reports”) describing the subsequent actions and a subsequent application
5 for the payment of fees and expenses related to the subsequent acts;
6

7 B. The Court will review the Final Report and any objections to the report
8 and, absent a valid objection, will issue an order directing that the
9 Receiver:

- 10 1. Pay the reasonable costs and expenses of administering the
11 Receivership, including compensation of the Receiver and the
12 Receivers’ personnel authorized by Section VII of this Permanent
13 Injunction or other orders of this Court, and the actual out-of-
14 pocket costs incurred by the Receiver in carrying-out his duties;
15 and
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- 17 2. To the extent that funds remain, pay all remaining funds to the FTC
18 or its designated agent to reduce the monetary judgment in
19 Paragraph A of Section IV.
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IX. COOPERATION WITH THE RECEIVER

IT IS FURTHER ORDERED that:

- A. Defendants and all other persons or entities served with a copy of this Permanent Injunction shall fully cooperate with and assist the Receiver in taking possession, custody, or control of the assets of the Corporate Defendants. This cooperation and assistance shall include, but not be limited to, providing information to the Receiver that the Receiver deems necessary in order to exercise the authority and discharge the responsibilities of the Receiver under this Permanent Injunction; providing any password required to access any computer, electronic file, or telephonic data in any medium; and advising all persons who owe money to the Corporate Defendants that all debts should be paid directly to the Receiver;
- B. Upon service of a copy of this Permanent Injunction, all entities that hold assets or records related to the business of the Corporate Defendants shall

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1 commodity trading companies, precious metals dealers and other
2 financial institutions and depositories of any kind, and all third-party
3 billing agents, local exchange carriers, common carriers, and othes0 -1 i
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1 X. ASSET FREEZE

2 IT IS FURTHER ORDERED that the asset freeze contained in the Preliminary
3 Injunction Order and Modified Preliminary Injunction Order previously entered in this
4 case shall remain in effect pending completion of the turnover of the Corporate
5 Defendants' assets to the Receiver, and the Individual Defendants' and Relief
6 Defendant's assets to the Commission pursuant to Section V of this Order.
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9 XI. PROHIBITION ON DISCLOSING CUSTOMER INFORMATION

10 IT IS FURTHER ORDERED that the Defendants are hereby permanently
11 restrained and enjoined from:
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13 A. Selling, renting, leasing, transferring, or otherwise disclosing the name,
14 address, telephone number, social security number, or other identifying information of
15 any person who purchased or paid to participate in a business venture at any time prior
16 to the date this Order is entered; and
17

18 B. Benefitting from or using the name, address, telephone number, credit
19 card number, bank account number, date of birth, email address, or other identifying or
20 financial information of any person who submitted this information to the Defendants
21 as a result of, or otherwise related to, the activities alleged in the FTC's Complaint;
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23 *Provided, however,* that the Defendants may disclose identifying information to a
24 law enforcement agency or as required by any law, regulation, or court order.
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1 XII. COMPLIANCE MONITORING

2 IT IS FURTHER ORDERED that, for the purpose of monitoring and
3 investigating compliance with any provision of this Order,
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5 A. Within ten (10) days of receipt of written notice from a representative of
6 the Commission, each Corporate Defendant and Individual Defendant shall submit
7 additional written reports, sworn to under penalty of perjury; produce documents for
8 inspection and copying; appear for deposition; and/or provide entry during normal
9 business hours to any business location in such Corporate Defendant's or Individual
10 Defendant's possession or direct or indirect control to inspect the business operation;
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1 in the ownership of the Individual Defendant in any
2 business entity, within ten (10) days of the date of such
3 change. Such notice shall include the name and address of
4 each business that the Individual Defendant is affiliated
5 with, employed by, creates or forms, or performs services
6 for; a statement of the nature of the business; and a
7 statement of the Individual Defendant's duties and
8 responsibilities in connection with the business or
9 employment; and
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12 c. Any changes in the Individual Defendant's name or use of
13 any aliases or fictitious names; and
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15 2. Corporate Defendants and Individual Defendants each shall notify
16 the Commission of any changes in corporate structure or any business entity that
17 a Corporate Defendant or Individual Defendant directly or indirectly controls, or
18 has an ownership interest in, that may affect compliance obligations arising
19 under this Order, including but not limited to a dissolution, assignment, sale,
20 merger, or other action that would result in the emergence of a successor entity;
21 the creation or dissolution of a subsidiary, parent, or affiliate that engages in any
22 acts or practices subject to this Order; the filing of a bankruptcy petition; or a
23 change in the corporate name or address, at least thirty (30) days prior to such
24 change, *provided that*, with respect to any proposed change in the corporation
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1 about which the Corporate Defendants or Individual Defendants learn less than
2 thirty (30) days prior to the date such action is to take place, the Corporate
3 Defendants or Individual Defendants shall notify the Commission as soon as is
4 practicable after obtaining such knowledge.
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6 B. One hundred eighty (180) days after the date of entry of this Order, each
7 Corporate and Individual Defendant shall provide a written report to the FTC, sworn to
8 under penalty of perjury, setting forth in detail the manner and form in which they
9 have complied and are complying with this Order. This report shall include, but not be
10 limited to:
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12 1. For each Individual Defendant:

13 a. The then-current residence address, mailing addresses, and
14 telephone numbers of the Individual Defendant;

15 b. The then-current employment and business addresses and
16 telephone numbers of the Individual Defendant, a
17 description of the business activities of each such employer
18 or business, and the title and responsibilities of the
19 Individual Defendant, for each such employer or business;
20
21 and

22 c. Any other changes required to be reported under
23 subparagraph A of this Section.
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25 2. For Corporate Defendants and Individual Defendants:
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- 1 a. A copy of each acknowledgment of receipt of this Order,
2 obtained pursuant to Section XVI; and
3 b. Any other changes required to be reported under
4 subparagraph A of this Section.
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6 C. For the purposes of this Order, Corporate Defendants and Individual
7 Defendants shall, unless otherwise directed by the Commission's authorized
8 representatives, mail all written notifications to the Commission to:

9 Associate Director for Division of Enforcement
10 Federal Trade Commission
11 601 New Jersey Avenue, N.W.
12 Room NJ-2119
13 Washington, D.C. 20580
14 Re: FTC v. National Vending Consultants, et al.,
15 Civil Action No. CV-S-05-0160-RCJ-PAL.

16 D. For purposes of the compliance reporting and monitoring required by this
17 Order, the Commission is authorized to communicate
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1 **XV. DISTRIBUTION OF ORDER BY DEFENDANTS**

2 IT IS FURTHER ORDERED that, for a period of five (5) years from the date of
3 entry of this Order, Corporate Defendants and Individual Defendants shall deliver
4 copies of the Order as directed below:
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- 6 A. Corporate Defendants: Corporate Defendants must deliver a copy of this
7 Order to all of its principals, officers, directors, and managers. Corporate
8 Defendants also must deliver copies of this Order to all of its employees,
9 agents, and representatives who engage in conduct related to the subject
10 matter of the Order. For current personnel, delivery shall be within (5)
11 days of service of this Order upon Defendant. For new personnel,
12 delivery shall occur prior to them assuming their responsibilities;
13 a cois liver
- 14 B. Individual Defendant as Control Person: For any business that the
15 Individual Defendant controls, directly or indirectly, or in which the
16 Individual Defendant has a majority ownership interest, the Individual
17 Defendant must deliver a copy
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XVII. 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.

IT IS SO ORDERED this 21st day o

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