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1 WHEREAS, on April 6, 2005, the Court issued a Temporary Restraining Order in this
2 case (Dkt. #13), which, among other provisions, froze the assets of Defendants and Relief
3 Defendant. On April 14, 2005, the Court granted a Stipulated Preliminary Injunction in this case
4 (Dkt. #35), which, among other provisions, continued the freeze on those assets.

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1 enforce its remedies against real property owned by Defendant Gregory High, located at 90 Echo
2 Run, Irvine, CA. That order stated that, “if [surplus funds resulting from Washington Mutual’s
3 foreclosure proceedings] are realized after a final order has been entered in this matter, such
4 surplus funds be transferred to the FTC pursuant to the terms of the final order.”

5 WHEREAS, on February 27, 2009, the Federal Trade Commission filed a motion titled,
6 *Motion Pursuant to the Court’s January 7, 2009, Order for Entry of Final Judgment and Order.*

7 **THEREFORE, it is hereby ORDER, ADJUDGED, and DECREED as follows:**

8 **FINDINGS**

- 9 1. This Court has jurisdiction over the subject matter of this case and jurisdiction over all
10 parties.
- 11 2. Venue in this district is proper under 15 U.S.C. § 53(b) and 28 U.S.C. § 1391(b) and (c).
- 12 3. The activities of Defendants are in or affecting commerce, as defined in the FTC Act, 15
13 U.S.C. § 44.
- 14 4. The Complaint states a claim upon which relief can be granted against Defendants and
15 Relief Defendant under Sections 5(a), 13(b), and 19 of the Federal Trade Commission
16 Act (“FTC Act”), 15 U.S.C. §§ 45(a), 53(b), and 57b, and under the 2005 Franchise Rule,
17 16 C.F.R. Part 436 (2005).
- 18 5. This Order incorporates the findings and conclusions set forth in the September 29, 2006,
19 order (Dkt. #143) entered by this Court in this case.
- 20 6. Having reviewed the FTC’s Motion for Summary Judgment, the Court finds that between
21 mid 2001 and early 2004, consumers paid an aggregate of \$18,867,528 to Defendant
22 Network Services Depot.
- 23 7. This Order incorporates the findings and conclusions set forth in the March 24, 2006,
24 order (Dkt. #142), the September 17, 2007, order (Dkt. #175), the January 7, 2009, order
25 (Dkt. #228) (collectively, “Attorney Fees Orders”) entered by this Court in this case as to
26 Defendants and Jeffrey S. Benice.
- 27 8. Having reviewed the February 25, 2009, stipulation between the FTC and Mr. Benice,

1 the Court finds that the law firm of Jeffrey S. Benice is entitled to \$136,700 for
2 reasonable attorney fees and costs directly related to this case between January 1, 2005,
3 and April 1, 2006. Therefore, pursuant to the Attorney Fees Orders, the FTC is entitled,
4 for consumer restitution, to the retainer funds paid to the law firm of Jeffrey S. Benice in
5 excess of \$136,700, which amounts to \$238,300.

6 9. The paragraphs of this Order shall be read as the necessary requirements for compliance
7 and not as alternatives for compliance, and no paragraph serves to modify another
8 paragraph unless expressly so stated.

9 10. Each party shall bear its own costs and attorneys' fees.

10 11. Entry of this Order is in the public interest.

11 **DEFINITIONS**

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

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

18 B. "Business Opportunity Rule" means FTC Trade Regulation Rule titled
19 "Disclosure Requirements and Prohibitions Concerning Business Opportunities," codified at 16
20 C.F.R. Part 437, or as it may be amended.

21 C. "Business Venture" means any written or oral business arrangement, however
22 denominated, that is covered by the Franchise Rule or the Business Opportunity Rule, or that
23 consists of the payment of any consideration in exchange for:

24 a. the right or means to offer, sell, or distribute goods or services (regardless
25 of whether identified by a trademark, service mark, trade name,
26 advertising, or other commercial symbol); and

27 b. more than nominal assistance to any person or entity in connection with or

1 incident to the establishment, maintenance, or operation of a new business
2 or the entry by an existing business into a new line or type of business.

3 D. "Corporate Defendants" means Network Services Depot, Inc.; Network
4 Marketing, LLC; Network Services Distribution, Inc.; Sunbelt Marketing, Inc.; and their
5 successors and assigns.

6 E. "Defendants" means all of the Individual Defendants and the Corporate
7 Defendants, individually, collectively, or in any combination.

8 F. "Document" is synonymous in meaning and equal in scope to the usage of the
9 term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts,
10 photographs, audio and video recordings, computer records, and other data compilations from
11 which the information can be obtained and translated, if necessary, through detection devices
12 into reasonably usable form. A draft or non-identical copy is a separate document within the
13 meaning of the term.

14 G. "Franchise Rule" means the FTC Trade Regulation Rule titled "Disclosure
15 Requirements and Prohibitions Concerning Franchising," codified at 16 C.F.R. Part 436, or as it
16 may be amended.

17 H. "Individual Defendants" means Charles V. Castro, Elizabeth L. Castro, and
18 Gregory High.

19 I. "Person" means a natural person, organization or other legal entity, including a
20 corporation, partnership, proprietorship, association, or cooperative, or any other group, or
21 combination acting as an entity.

22 J. "Relief Defendant" means Phyllis Watson.

23 **ORDER**

24 **I.**

25 **BAN ON SALE OF FRANCHISES AND BUSINESS VENTURES**

26 **IT IS THEREFORE ORDERED** that the Corporate Defendants and Defendant Charles
27 V. Castro, directly or through any corporation, partnership, subsidiary, division, trade name,

- 1 D. The availability or existence of locations or profitable locations for such good or
2 service.

3 **III.**

4 **MEANS AND INSTRUMENTALITIES**

5 **IT IS FURTHER ORDERED** that, in connection with the advertising, offering for sale,
6 licensing, contracting, sale or other promotion, in or affecting commerce, of any goods or
7 services, Defendants, directly or through any corporation, partnership, subsidiary, division, trade
8 name, device, or other entity, and their officers, agents, servants, employees, and attorneys, and
9 all persons and entities in active concert or participation with them who receive actual notice of
10 this Order, by personal service or otherwise, are hereby enjoined from providing to others the
11 means or instrumentalities with which to make misrepresentations, expressly or by implication,
12 of any material fact, including, but not limited to, providing others with materials that contain
13 false representations concerning:

- 14 A. The existence, performance, efficacy, nature, or central characteristic of such
15 good or service;
16 B. The income, profit, or sales volume that a purchaser of such good or service is
17 likely to achieve;
18 C. The source of any income or profit sent to a purchaser of such good or service; or
19 D. The availability or existence of locations or profitable locations for such good or
20 service.

21 **IV.**

22 **MONETARY RELIEF**

23 **IT IS FURTHER ORDERED** that:

- 24 A. Judgment is hereby entered jointly and severally against the Corporate
25 Defendants, Defendant Charles V. Castro, and Defendant Gregory High in the
26 amount of eighteen million, eight hundred twenty-seven thousand, five hundred
27 twenty-eight dollars (\$18,827,528), as equitable monetary relief to redress

1 consumer injury. This monetary judgment shall become immediately due and
2 payable by Defendants upon entry of this Order, and interest computed at the rate
3 prescribed under 28 U.S.C. § 1961 shall immediately begin to accrue on the
4 unpaid balance.

5 B. Within ten (10) business days of the date of service of this Order, by personal
6 service or otherwise, Relief Defendant shall pay to the FTC as equitable monetary
7 relief to redress consumer injury all funds containedo rebT iy t7-nia tovpop46 (764 t7-niamt, Relief
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1 apply any remaining funds for any other equitable relief (including consumer
2 information remedies) that it determines to be reasonably related to Defendants'
3 practices alleged in the Complaint. Any funds not used for this equitable relief
4 shall be deposited into the U.S. Treasury as disgorgement. Defendants and Relief
5 Defendant shall have no right to challenge the FTC's choice of remedies under
6 this Section.

7 **V.**

8 **TURNOVER OF ASSETS HELD BY THIRD PARTIES**

9 **IT IS FURTHER ORDERED** that to partially satisfy the monetary judgment set forth
10 in the Section titled "Monetary Relief:"

11 A. Any law firm, financial or brokerage institution, escrow agent, title company,
12 commodity trading company, business entity, or person, that holds, controls, or
13 maintains custody of any asset or account of, on behalf of, or for the benefit of,
14 any Corporate Defendant, Defendant Charles V. Castro, or Defendant Gregory
15 High, or has held, controlled, or maintained custody of any account or asset of, on
16 behalf of, or for the benefit of, any such Defendant, shall turn over such asset or
17 all funds in such account to the Commission or its duly authorized agent (as
18 directed by Commission counsel), within ten (10) business days of receiving
19 actual notice of this Order by personal service or otherwise. Those assets or
20 accounts include, but not necessarily limited to:

- 21 1. All frozen funds held at Fullerton Community Bank, including, but not
22 limited to, funds in accounts in the name of, or controlled by, any
23 Defendant, including accounts with account numbers ending in 9150,
24 9169, 1018, 1827, 3179, 0058, 3518, 2905, 0266, and 9753;
- 25 2. All frozen funds held at Union Bank of California, including, but not
26 limited to, funds in the account in the name of, or controlled by, any
27 Defendant, with account number ending in 0230, 7484, and 7674; and

1 hundred dollars (\$238,300) (“Benice Funds”), (b) designate the Benice
2 Funds as: “Retainer Funds Subject to Consumer Restitution in *FTC v.*
3 *Network Services Depot;*” and (c) transfer the Benice Funds to a trust
4 account maintained by the law firm of Jeffrey S. Benice; and

5 2. Within ten (10) business days of the date of receiving actual notice of this
6 Order by personal service or otherwise, transfer the Benice Funds to the
7 Commission or its duly authorized agent (as directed by Commission
8 counsel) by electronic funds transfer, designating the Benice Funds as
9 “Retainer Funds Subject to Consumer Restitution in *FTC v. Network*
10 *Services Depot.*”

11 F. If, after entry of this Order, Washington Mutual Bank, its successors, and/or
12 assigns, realizes any excess proceeds (proceeds in excess of payment of all sums
13 that Washington Mutual Bank secured by a deed of trust) upon exercising any
14 rights it has to enforce remedies against real property owned by Defendant
15 Gregory High, located at 90 Echo Run, Irvine, CA, Washington Mutual Bank, its
16 successors, and/or assigns shall transfer such excess proceeds to the Commission
17 or its duly authorized agent (as directed by Commission counsel) within ten (10)
18 business days of realizing such proceeds.

19 G. All payments required to be made to the Commission or its agents or
20 representatives under this Section shall be used as equitable monetary relief to
21 redress consumer injury in accordance with the Section titled “Monetary Relief”
22 and shall be made by electronic funds transfer in accordance with directions
23 provided by the Commission.

24 **VI.**

25 **LIFTING OF THE ASSET FREEZE**

26 **IT IS FURTHER ORDERED** that the freeze of the assets pursuant to the Stipulated
27 Preliminary Injunction in this case shall be lifted to the extent necessary to transfer assets

1 with them who receive actual notice of this Order, by personal service or otherwise, are hereby
2 enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name, address,
3 telephone number, credit card number, bank account number, email address, or other identifying
4 information of any person who purchased a Business Venture from any Defendant; *provided* that
5 Defendants may disclose such identifying information to a law enforcement agency, including
6 the Federal Trade Commission, or as required by any law, regulation, or court order.

7 **IX.**

8 **COMPLIANCE MONITORING**

9 **IT IS FURTHER ORDERED** that, for the purpose of monitoring and investigating
10 compliance with any provision of this Order:

- 11 A. Within ten (10) days of receipt of written notice from a representative of the
12 Commission, Defendants and Relief Defendant each shall submit additional
13 written reports, which are true and accurate and sworn to under penalty of
14 perjury; produce documents for inspection and copying; appear for deposition;
15 and provide entry during normal business hours to any business location in such
16 Defendant's possession or direct or indirect control to inspect the business
17 operation;
- 18 B. In addition, the Commission is authorized to use all other lawful means, including
19 but not limited to:
- 20 1. obtaining discovery from any person, without further leave of court, using
 - 21 the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, 45 and 69;
 - 22 2. posing as consumers and suppliers to Defendants, their employees, or any
 - 23 other entity managed or controlled in whole or in part by any Defendant,
 - 24 without the necessity of identification or prior notice; and
- 25 C. Defendants each shall permit representatives of the Commission to interview any
26 employer, consultant, independent contractor, representative, agent,
27 or employee who has agreed to such an interview, relating in any way to any



1 Corporate Defendant or any business entity that any Defendant directly or
2 indirectly controls, or has an ownership interest in, that may affect
3 compliance obligations arising under this Order, including but not limited
4 to: incorporation or other organization; a dissolution, assignment, sale,
5 merger, or other action; the creation or dissolution of a subsidiary, parent,
6 or affiliate that engages in any acts or practices subject to this Order; or a
7 change in the business name or address, at least thirty (30) days prior to
8 such change, *provided* that, with respect to any proposed change in the
9 business entity about which a Defendant learns less than thirty (30) days
10 prior to the date such action is to take place, such Defendant shall notify
11 the Commission as soon as is practicable after obtaining such knowledge.

12 B. One hundred eighty (180) days after the date of entry of this Order and annually
13 thereafter for a period of five (5) years, Defendants each shall provide a written
14 report to the FTC, which is true and accurate and sworn to under penalty of
15 perjury, setting forth in detail the manner and form in which they have complied
16 and are complying with this Order. This report shall include, but not be limited
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1 owner of the business or directly or indirectly manages or controls the business, and their agents,
2 employees, officers, corporations, and those persons in active concert or participation with them
3 who receive actual notice of this Order by personal service or otherwise, are hereby restrained
4 and enjoined from failing to create and retain the following records:

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

7 B. Personnel records accurately reflecting: the name, address, and telephone number
8 of each person employed in any capacity by such business, including as an
9 independent contractor; that person's job title or position; the date upon which the
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1 of this Order, Defendants shall deliver copies of the Order as directed below:

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

13 B. **Individual Defendant as Control Person:** For any business that an Individual
14 Defendant controls, directly or indirectly, or in which such Defendant has a

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9 occ-7s31f(re)45days prior to n12(x.01 Tw 71) 0 Td[(s)-7s31f(re)46 responsibilities. For any bu

1 otherwise engages in conduct related to the subject matter of this Order, such
2 Defendant must deliver a copy of this Order to all principals and managers of
3 such business before engaging in such conduct.

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

7 **XIII.**

8 **ACKNOWLEDGMENT OF RECEIPT OF ORDER**

9 **IT IS FURTHER ORDERED** that each Defendant and Relief Defendant, within five (5)
10 business days of receipt of this Order as entered by the Court, must submit to the Commission a
11 truthful sworn statement acknowledging receipt of this Order.

12 **XIV.**

13 **SEVERABILITY**

14 **IT IS FURTHER ORDERED** that the provisions of this Order are separate and
15 severable from one another. If any provision is stayed or determined to be invalid, the remaining
16 provisions shall remain in full force and effect.

17 **XV.**

18 **RETENTION OF JURISDICTION**

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

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22 **IT IS SO ORDERED**, this 5 day of MAR, 2009

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25 Dated: J

26 LLOYD D. GEORGE
27 U.S. DISTRICT COURT JUDGE

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Respectfully submitted,
/s/ Lisa D. Rosenthal

DATED: 2/27/09 _____