

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND

_____)
)
 FEDERAL TRADE COMMISSION,)
)
 Plaintiff,)
)
 v.)
)
 MEDIA INNOVATIONS, LLC,)
 a Maryland limited liability company,)
)
 HERMOSA GROUP, LLC)
 a Maryland limited liability company,)
)
 FINANCIAL FUTURE NETWORK, LLC,)
 a Maryland limited liability company,)
 and)
)
 JONATHAN GREENBERG, individually and)
 as an officer of Media Innovations, LLC,)
 Hermosa Group, LLC, and Financial)
 Future Network, LLC,)
)
 Defendants.)
 _____)

Case No. _____

**STIPULATED FINAL JUDGMENT
AND ORDER**

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), has filed a Complaint for Permanent Injunction and Other Equitable Relief pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §53(b), to obtain permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, the disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

The Complaint alleges that Defendants engaged in unfair or deceptive acts or practices in

advertising and marketing debt relief services in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

The parties, by and through their respective counsel, have agreed to entry of this Stipulated Final Judgment and Order (“Order”) by this Court without trial or adjudication of any issue of fact or law relating to any of the matters alleged in the Complaint and without any admission of wrongdoing or violation of law. Defendants waive any right that may arise under the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended by Pub. L. 104-121, 110 Stat. 847, 863-64 (1996), and any claims they may have against the Commission, its employees, representatives, or agents. Defendants have waived service of the Summons and Complaint.

The parties having requested the Court to enter this Order, it is therefore ORDERED, ADJUDGED, AND DECREED as follows:

FINDINGS

1. This Court has jurisdiction over the subject matter and over the parties.
2. The Complaint states a claim upon which relief may be granted against Defendants under Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a), 53(b).
3. Venue is proper in this District under 28 U.S.C. § 1391(b) and (c) and 15 U.S.C. § 53(b).
4. The activities of Defendants are in or affecting commerce as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44, as amended.
5. Defendants have read and fully understand the Complaint against them and the provisions of this Order, and they freely enter into this Order.
6. Defendants waive all rights to seek judicial review or otherwise challenge or contest the

validity of this Order.

7. This Order is in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law.

8. Entry of this Order is in the public interest.

ORDER

DEFINITIONS

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

A. **“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 advertising or marketing material;
3. formulating or providing, or arranging for the formulation or provision of, any marketing support material or service, which includes but is not limited to web addresses or Internet Protocol addresses for any Internet websites, telemarketing sales scripts, affiliate marketing services, or media placement services;
4. providing names of, or assisting in the generation of, potential customers;
5. performing marketing, billing, or payment services of any kind; and
6. acting or serving as an owner, officer, director, manager, or principal of any entity.

B. **“Competent and reliable evidence”** means tests, analyses, research, studies, or other

- I. **“Financial related product or service”** means any product, service, plan, or program represented, expressly or by implication, to:
1. provide any consumer, arrange for any consumer to receive, or assist any consumer in receiving, credit, debit, or stored value cards;
 2. improve, or arrange to improve, any consumer’s credit record, credit history, or credit rating;
 3. provide advice or assistance to any consumer with regard to any activity or service the purpose of which is to improve a consumer’s credit record, credit history, or credit rating;
 4. provide any consumer, arrange for any consumer to receive, or assist any consumer in receiving, a loan or other extension of credit; or
 5. provide any consumer, arrange for any consumer to receive, or assist any consumer in receiving any service represented, expressly or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of the debt between a consumer and one or more secured creditors, servicers, or debt collectors.
- J. **“Individual Defendant”** means Jonathan Greenberg.
- K. **“Person”** means a natural person, an organization or other legal entity, including a corporation, partnership, sole proprietorship, limited liability company, association, cooperative, or any other group or combination acting as an entity.

BAN ON DEBT RELIEF SERVICES

I.

IT IS THEREFORE ORDERED that Defendants, whether acting directly or through any other person, are permanently restrained and enjoined from:

- A. Advertising, marketing, promoting, offering for sale, or selling any debt relief service; and
- B. Assisting others engaged in advertising, marketing, promoting, offering for sale, or selling any debt relief service.

**PROHIBITED MISREPRESENTATIONS RELATING TO FINANCIAL
RELATED PRODUCTS OR SERVICES**

II.

IT IS FURTHER ORDERED that Defendants and their officers, agents, servants, employees, and attorneys, and those persons or entities in active concert or participation with any of them who receive actual notice of this Order by personal service, facsimile transmission, email, or otherwise, whether acting directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, marketing, promotion, offering for sale or sale of any financial related product or service, are hereby 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 terms or rates that are available for any loan or other extension of credit;
- B. Any person's ability to improve or otherwise affect a consumer's credit record, credit history, credit rating or ability to obtain credit;

- C. That any person can obtain a modification of any secured loan or mortgage or postpone or cancel the foreclosure of any property by renegotiating, settling, or in any other way altering the terms of payment or other terms of such debt; or
- D. That a consumer will receive legal representation.

**PROHIBITED MISREPRESENTATIONS RELATING TO ANY
PRODUCTS OR SERVICES**

III.

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

- A. 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;
- B. That any person is affiliated with, endorsed or approved by, or otherwise connected to any other person; government entity; public, non-profit, or other non-commercial program; or any other program;

- C. That they themselves provide the product, service, plan, or program;
- D. That any person providing a testimonial has purchased, received, or used the product, service, plan, or program;
- E. That the experience represented in a testimonial of the product, service, plan, or program represents the person's actual experience resulting from the use of the product, service, plan, or program under the circumstances depicted in the advertisement;
- F. The total costs to purchase, receive, or use, or the quantity of, the product, service, plan, or program;
- G. Any material restriction, limitation, or condition on purchasing, receiving, or using the product, service, plan, or program; or
- H. Any material aspect of the performance, efficacy, nature, or characteristics of the product, service, plan, or program.

SUBSTANTIATION FOR BENEFIT, PERFORMANCE,

AND EFFICACY CLAIMS

IV.

IT IS FURTHER ORDERED that Defendants and their officers, agents, servants, employees, and attorneys, and those persons or entities in active concert or participation with any of them who receive actual notice of this Order by personal service, facsimile transmission, email, or otherwise, whether acting directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, marketing, promotion, offering for sale, or sale of any financial related product or service are hereby permanently restrained and enjoined from making any representation or assisting

others in making any representation, expressly or by implication, about the benefits, performance, or efficacy of any financial related product or service, unless at the time such representation is made, Defendants possess and rely upon competent and reliable evidence that substantiates that the representation is true.

PROHIBITION ON DISCLOSING CUSTOMER INFORMATION

V.

IT IS FURTHER ORDERED that Defendants and their officers, agents, servants, employees,

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.

MONETARY JUDGMENT

VI.

IT IS FURTHER ORDERED that:

- A. Judgment is hereby entered jointly and severally against Defendants in the amount of EIGHT MILLION, FIVE HUNDRED THIRTY-THREE, SEVEN HUNDRED SEVENTY-NINE DOLLARS (\$8,533,779) as equitable monetary relief.
- B. The judgment against Defendants shall be suspended in part and subject to Section VII of this Order, *provided that* Defendants shall pay to the Commission the sum of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) within 10 days of the entry of this Order by electronic transfer, pursuant to instructions to be provided by counsel to the FTC.
- C. All funds received by the Commission 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 such equitable relief. In the event that direct restitution to consumers is wholly or partially impracticable or funds remain after restitution is completed, the Commission may apply any remaining funds for such 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 such equitable relief shall be deposited

shall be used for purposes of collecting and reporting on any delinquent amount arising out of their relationship with the government.

RIGHT TO REOPEN

VII.

IT IS FURTHER ORDERED that:

- A. The FTC's agreement to this Order, requiring that the judgment be suspended for less than the full amount of the judgment, is expressly premised upon the truthfulness, accuracy and completeness of Defendants' financial condition, as represented in Defendants' sworn financial statements submitted by the Defendants to the Commission on April 12, 2010 and October 7, 2010, along with Defendants' supporting financial documents submitted by the Defendants to the Commission on March 26, 2009, October

accrue, less any amounts previously paid by Defendants to the Commission. *Provided, however, that*

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)).

COMPLIANCE REPORTING

IX.

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

- A. For a period of three (3) years from the date of entry of this Order,
 1. The Individual Defendant shall notify the Commission of the following:
 - a. any changes in such Defendant's residence, mailing addresses, and telephone numbers, within ten (10) days of the date of such change;

- b. any changes in such Defendant's employment status (including self-employment), and any change in such Defendant's ownership in any business entity, within ten (10) days of the date of such change. Such notice shall include the name and address of each business that such 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 such Defendant's duties and responsibilities in connection with the business or employment; and
 - c. any changes in such Defendant's name or use of any aliases or fictitious names within ten (10) days of the date of such change.
2. Defendants shall notify the Commission of any changes in structure of any Corporate Defendant 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 such change, *provided* that, with respect to any such change in the business entity about which a Defendant learns less than thirty (30) days prior to the date such action is to take place, such 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 three (3) 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 the Individual Defendant:

- a. such Defendant's then-current residence address, mailing addresses, and telephone numbers;
- b. such Defendant's then-current employment status (including self-employment), including the name, addresses, and telephone numbers of each business that such Defendant is affiliated with, employed by, or performs services for; a detailed description of the nature of the business; and a detailed description of such 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 such 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 to the Commission required by this Order to:

Associate Director for Enforcement
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580
RE: *FTC v. Media Innovations, LLC, et al.*

Provided, that, in lieu of overnight courier, Defendants may send such reports or notifications by first-class mail, but only if Defendants contemporaneously send an electronic version of such

- A. Accounting records that reflect the cost of products, services, plans, or programs sold, revenues generated, and the disbursement of such revenues;
- B. Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by such 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 products, services, plans, or programs purchased, and description of the products, services, plans or programs purchased, to the extent such information is obtained in the ordinary course of business;
- D. Complaints and refund requests (whether received directly, indirectly, or through any third party) and any responses to those complaints or requests;
- E. Copies of all sales scripts, training materials, advertisements, direct mail solicitations, contracts sent to consumers, 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 this 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."

DISTRIBUTION OF ORDER

XI.

IT IS FURTHER ORDERED that, for a period of three (3) years from the date of entry of this Order, Defendants must deliver copies of this Order as directed below:

- A. Corporate Defendant: 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 such 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.
- B. Individual Defendant as control person: For any business that the Individual Defendant controls, directly or indirectly, or in which the Individual Defendant has a majority ownership interest, he 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 such 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 Defendant as employee or non-control person: For any business where the Individual Defendant is not a controlling person of a business but otherwise engages in conduct related to the subject matter of this Order, he must deliver a copy of this Order to all principals and managers of such 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.

ACKNOWLEDGMENT OF RECEIPT OF ORDER

XII.

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.

RETENTION OF JURISDICTION

XIII.

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of

SO STIPULATED AND AGREED:

FOR PLAINTIFF FEDERAL TRADE COMMISSION

ATTORNEYS FOR THE DEFENDANTS

Date: 1/18/2011

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