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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Federal Trade Commission,
Plaintiff,
vs.
Money Now Funding, LLC, et al.,
Defendants.

No. CV-13-01583-PHX-ROS

FINAL JUDGMENT AND ORDER FOR
PERMANENT INJUNCTION AND
EQUITABLE MONETARY JUDGMENT
AS TO DEFENDANT RICHARD
FROST

Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), filed its Complaint for Permanent Injunction and Other Equitable Relief (Doc. 3), subsequently amended by the First Amended Complaint for Permanent Injunction and Other Equitable Relief (Doc. 194) (as amended, the “Complaint”), pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) & 57b. The FTC subsequently filed a Motion for Default Judgment against Defendant Richard Frost (“Defendant R. Frost”) on all counts of the First Amendment Complaint.

Defendant R. Frost was served with the Complaint in this action (Doc. 31), but has not opposed, defended, or answered the Complaint (Docs. 78 & 85). Furthermore, the Complaint is well pled and the relief sought in the Complaint is reflected in the proposed order submitted with the Motion. Having considered the Complaint, memorandum of law and exhibits, and other evidence filed in this matter, the Court granted the Commission’s Motion for Default Judgment (Doc. 356) and enters this judgment and order as to Defendant Richard Frost as follows.

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- c) The Business Opportunity Seller, expressly or by implication, orally or in writing, represents that the Seller or one or more Designated Persons will:
 - i. Provide Locations for the use or operation of equipment, displays, vending machines, or similar devices, owned, leased, controlled, or paid for by the purchaser; or
 - ii. Provide Outlets, Accounts, or Customers, including, but not limited to, Internet outlets, accounts, or customers, for the purchaser's goods or services; or
 - iii. Buy back any or all of the goods or services that the

1 6. **“Designated Person”** means any Person, other than the Business
2 Opportunity Seller, whose goods or services the Business Opportunity Seller suggests,
3 recommends, or requires that the purchaser use in establishing or operating a New
4 Business.

5 7. **“Individual Defendants”** means Lukeroy K. Rose, a/k/a Luke Rose,
6 Cordell Bess, Cynthia Miller, a/k/a Cynthia Metcalf, Solana DePaola, Jennifer Beckman,
7 William D. Claspell, a/k/a Bill Claspell, Richard Frost, Dino Mitchell, Clinton Rackley,
8 Lance Himes, a/k/a Lance R. Himes, a/k/a Raymond L. Himes, Leary Darling, Donna F.
9 Duckett, also d/b/a D&D Marketing Solutions, Della Frost, also d/b/a Zoom Docs,
10 Christopher Grimes, also d/b/a Elite Marketing Strategies, Alannah M. Harre, also d/b/a
11 National Marketing Group, Ronald W. Hobbs, a/k/a Ron Hobbs, also d/b/a Ron Hobbs &
12 Associates, Janine Lilly, also d/b/a Doc Assistant, Michael McIntyre, also d/b/a McIntyre
13 Marketing, Benny Montgomery, also d/b/a Montgomery Marketing, Virginia Rios, also
14 d/b/a V&R Marketing Solutions and Kendrick Thomas, also d/b/a KT Advertising.

15 8. **“National Do Not Call Registry”** means the registry of telephone numbers
16 maintained by the FTC, pursuant to the Telemarketing Sales Rule, 16 C.F.R.
17 § 310.4(b)(1)(iii)(B), of Persons who do not wish to receive Outbound Telephone Calls to
18 induce the purchase of goods or services.

19 9. **“New Business”** means a business in which the prospective purchaser is
20 not currently engaged, or a new line or type of business.

21 10. **“Outbound Telephone Call”** means a telephone call initiated by a
22 Telemarketer to induce the purchase of goods or services or to solicit a charitable
23 contribution.

24 11. **“Person”** means a natural person, organization, or other legal entity,
25 including a corporation, partnership, proprietorship, association, cooperative, government
26 or governmental subdivision or agency, or any other group or combination acting as an
27 entity.

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1 12. **“Provide Locations, Outlets, Accounts, or Customers”** means to furnish
2 a prospective purchaser with existing or potential locations, outlets, accounts, or
3 customers; requiring, recommending, or suggesting one or more locations or lead
4 generation companies; providing a list of locator or lead generating companies; collecting
5 a fee on behalf of one or more locators or lead generating companies; offering to furnish
6 a list of locations; or otherwise assisting the prospective purchaser in obtaining his or her
7 own locations, outlets, accounts, or customers.

8 13. **“Representatives”** means Defendant R. Frost’s officers, agents,
9 employees, and attorneys, and all other Persons in active concert or participation with any
10 of them, who receive actual notice of this Order.

11 14. **“Required Payment”** means all consideration that the purchaser must pay
12 to the Business Opportunity Seller or an affiliate, either by contract or by practical
13 necessity, as a condition of obtaining or commencing operation of the Business
14 Opportunity. Such payment may be made directly or indirectly through a third party.

15 15. **“Telemarketer”** means any Person who, in connection with
16 Telemarketing, initiates or receives telephone calls to or from a customer or donor.

17 16. **“Telemarketing”** means any plan, program, or campaign which is
18 conducted to induce the purchase of goods or services by use of one or more telephones,
19 and which involves a telephone call, whether or not covered by the TSR.

20 17. **“Telemarketing Seller”** means any Person who, in connection with a
21 Telemarketing transaction, provides, offers to provide, or arranges for others to provide
22 goods or services to a customer in exchange for consideration whether or not such Person
23 is under the jurisdiction of the Commission.

24 18. **“Telemarketing Sales Rule”** means the FTC Rule entitled “Telemarketing
25 Sales Rule,” 16 C.F.R. Part 310.

26 19. **“Work-at-home Opportunity”** means any good, service, plan, or program
27 that is represented, expressly or by implication, to assist an individual in any manner to
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1 Opportunity, or (3) service to assist in the creation, advertising, marketing, promotion, or
2 operation of a Business Opportunity or Work-at-home Opportunity, including, but not
3 limited to, website development, advertising, marketing, sale of leads or lead generation,
4 social media promotion, search engine optimization, training, and business establishment
5 services.

6 **III.**

7 **Prohibition Against Misrepresentations**

8 **IT IS FURTHER ORDERED** Defendant R. Frost and his Representatives,
9 whether acting directly or indirectly, in connection with the advertising, marketing,
10 promotion, offering for sale, or sale of any products or services other than those banned
11 by Sections I or II of this Order, are **permanently restrained and enjoined from**
12 misrepresenting or assisting others in misrepresenting, expressly or by implication:

13 A. That Defendant R. Frost or any other Person offers, sells, or provides loans
14 or cash advances;

15 B. The amount of income, earnings, or profits that a Person may or is likely to
16 earn, or that other Persons have earned;

17 C. That Defendant R. Frost or any other Person will provide, locate, or obtain
18 leads containing the names or contact information of Persons potentially interested in
19 products or services Defendant R. Frost or any other Person purports to offer;

20 D. That Defendant R. Frost or any other Person will contact, sell, or provide
21 services to businesses consumers refer;

22 E. The total cost to purchase, receive, or use any products or services; or

23 F. Any material aspect of the performance, efficacy, nature, or central
24 characteristics of any product or service.

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IV.

Monetary Judgment

IT IS FURTHER ORDERED:

A. Judgment in the amount of ninety-eight thousand, eight hundred twenty-eight dollars and sixty cents (\$98,828.60) is entered in favor of the Commission against

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VI.

Customer Information

IT IS FURTHER ORDERED Defendant R. Frost and his Representatives, whether acting directly or indirectly, are **permanently restrained and enjoined from:**

A. Failing to provide sufficient customer information to enable the Commission to efficiently administer consumer redress. If a representative of the Commission requests in writing any information related to redress, Defendant R. Frost must provide it, in the form prescribed by the Commission, within fourteen (14) days.

B. 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 , tele1Aifying

1 five (5) days written notice, or other reasonable notice, at such places and times as a
2 Commission representative may designate, without the service of a subpoena.

3 **VIII.**

4 **Order Acknowledgments**

5 **IT IS FURTHER ORDERED** Defendant R. Frost obtain acknowledgments of
6 receipt of this Order as follows.

7 A. Defendant R. Frost, within seven (7) days of entry of this Order, must
8 submit to the Commission an acknowledgment of receipt of this Order sworn under
9 penalty of perjury.

10 B. For five (5) years after entry of this Order, Defendant R. Frost, for any
11 business that Defendant R. Frost is the majority owner or controls directly or indirectly,
12 must deliver a copy of this Order to (1) all principals, officers, directors, and LLC
13 managers and members; (2) all employees, agents, and representatives who participate in
14 conduct related to the subject matter of the Order; and (3) any business entity resulting
15 from any change in structure as set forth in the Section titled Compliance Reporting.
16 Delivery must occur within seven (7) days of entry of this Order for current personnel.
17 For all others, delivery must occur before they assume their responsibilities.

18 C. From each individual or entity to which Defendant R. Frost delivered a
19 copy of this Order, Defendant R. Frost must obtain, within thirty (30) days, a signed and
20 dated acknowledgment of receipt of this Order.

21 **IX.**

22 **Compliance Reporting**

23 **IT IS FURTHER ORDERED** Defendant R. Frost make timely submissions to
24 the Commission as follows.

25 A. One year after entry of this Order, Defendant R. Frost must submit a
26 compliance report, sworn under penalty of perjury, which must:

- 27 1) Identify all telephone numbers and all physical, postal, email and
28 Internet addresses, including all residences, and identify the primary

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physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission may use to communicate with Defendant R. Frost;

- 2) Identify all business activities, including any business for which Defendant R. Frost performs services whether as an employee or otherwise and any entity in which Defendant R. Frost has any ownership interest;
- 3) Describe in detail Defendant R. Frost’s involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership;
- 4) Identify all of Defendant R. Frost’s businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses;
- 5) Describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant in the case of *FTC v. Money Now Funding* (which Defendant R. Frost must describe if he knows or should know due to his own involvement);
- 6) Describe in detail whether and how Defendant R. Frost is in compliance with each Section of this Order; and
- 7) Provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

B. For twenty (20) years after entry of this Order, Defendant R. Frost must submit a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in the following:

- 1) Name, including aliases or fictitious names, or residence address;
- 2) Any designated point of contact;

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- 3) Title or role in any business activity, including any business for which Defendant R. Frost performs services whether as an employee or otherwise and any entity in which Defendant R. Frost has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity; and
- 4) The structure of any entity that Defendant R. Frost has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

C. Defendant R. Frost must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against Defendant R. Frost, within fourteen (14) days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to:

Associate Director for Enforcement
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue NW
Washington, DC 20580

The subject line must begin: FTC v. Richard Frost, Matter No. X130063.

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X.

Recordkeeping

IT IS FURTHER ORDERED Defendant R. Frost must create certain records for twenty (20) years after entry of the Order and retain each such record for five (5) years. Specifically, Defendant R. Frost, for any business that Defendant R. Frost is a majority owner or controls directly or indirectly, must create and retain the following records.

A. Accounting records showing the revenues from all goods or services sold;

B. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;

C. Records of all consumer complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response;

D. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission; and

E. A copy of each unique advertisement or other marketing material.

XI.

Compliance Monitoring

IT IS FURTHER ORDERED, for the purpose of monitoring Defendant R. Frost's compliance with this Order, that:

A. Within 14 days of receipt of a written request from a representative of the Commission, Defendant R. Frost must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission is also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

1 B. For matters concerning this Order, the Commission is authorized to
2 communicate directly with Defendant R. Frost. Defendant R. Frost must permit
3 representatives of the Commission to interview any employee or other person affiliated
4 with Defendant R. Frost who has agreed to such an interview. The person interviewed
5 may have counsel present.

6 C. The Commission may use all other lawful means, including posing, through
7 its representatives as consumers, suppliers, or other individuals or entities, to Defendant
8 R. Frost or any individual or entity affiliated with him, without the necessity of
9 identification or prior notice. Nothing in this Order limits the Commission's lawful use of
10 compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

11 D. Upon written request from a representative of the Commission, any
12 consumer reporting agency must furnish consumer reports concerning Defendant R.
13 Frost, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C.
14 §1681b(a)(1).

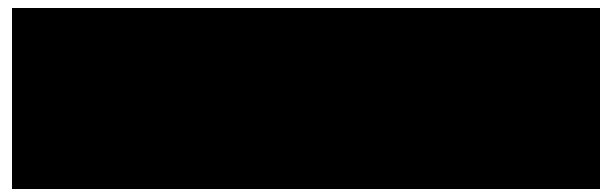
15 **XII.**

16 **Retention of Jurisdiction**

17 **IT IS FURTHER ORDERED** this Court retains jurisdiction of this matter for
18 purposes of construction, modification, and enforcement of this Order.

19 Dated this 15th day of July, 2015.

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Senior United States District Judge

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