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IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

FEDERAL TRADE COMMISSION,
Plaintiff,

vs.

DIGITAL ALTITUDE LLC, et al.,

**DAGAINSTTHERMOGRAPHY
FOR LIFE, LLC, ALSO D/B/A
LIVING EXCEPTIONALLY, INC.
(DKT. 282)**

**JS-6: Thermography For Life, Llc
Only**



This matter comes before the court upon the stipulation of Plaintiff, the
Federal Trade Commission (“FTC” or “Commission”), and Settling Defendant
Thermography for Life, LLC, also d/b/a Living Exceptionally, Inc. for the entry of
a Permanent Injunction against Settling Defendant.
On January 29, 2018, the FTC filed its Complaint for a Permanent
Injunction and Other Relief pursuant to Section 13(b) of the Federal Trade
Act, 15 U.S.C. § 53(b), and 15 C.F.R. § 201.26, and a temporary

1 B. The Complaint charges that Settling Defendant participated in
2 deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45.

3 C. Settling Defendant neither admits nor denies any of the allegations in
4 the Complaint, except as specifically stated in this Order. Only for purposes of this
5 action, Settling Defendant admits the facts necessary to establish jurisdiction.

6 D. Settling Defendant waives any claim that it may have under the Equal
7 Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action
8 through the date of this Order, and agrees to bear its own costs and attorney fees.

9 E. Settling Defendant and the Commission waive all rights to appeal or
10 otherwise challenge or contest the validity of this Order.

11 DEFINITIONS

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

13 A. “**Acquirer**” or “**Acquiring Bank**” means a business organization,
14 Financial Institution, or an agent of a business organization or Financial Institution
15 that has authority from an organization that operates or licenses a credit card
16 system (e.g., Visa, MasterCard, American Express or Discover) to authorize
17 Merchants to accept, transmit, or process payment by credit card through the credit
18 card system for money, products, or anything else of value.

19 B. “**Business Coaching Program**” means any program, plan, or product,
20 including those related to work-at-home-opportunities, that is represented,
21 expressly or by implication, to train or teach a participant or purchaser how to
22 establish a business or earn money or other consideration through a business or
23 other activity.

24 C. “**Corporate Defendants**” means Digital Altitude LLC; Digital
25 Altitude Limited; Aspire Processing LLC; Aspire Processing Limited; Aspire
26 Ventures Ltd; Disc Enterprises Inc.; RISE Systems & Enterprise LLC (Utah); RISE
27 Systems & Enterprise LLC (Nevada); Soar International Limited Liability
28 Company; The Upside, LLC; Thermography for Life, LLC, d/b/a Living

1 Exceptionally, Inc., and each of their subsidiaries, affiliates, successors, and
2 assigns.

3 D. **“Credit Card Laundering”** means: (a) presenting or depositing into,
4 or causing or allowing another to present or deposit into, the credit card system for
5 payment, a Credit Card Sales Draft generated by a transaction that is not the result
6 of a credit card transaction between the cardholder and the Merchant; (b)
7 employing, soliciting, or otherwise causing or allowing a Merchant, or an
8 employee, representative, or agent of a Merchant, to present to or deposit into the
9 credit card system for payment, a Credit Card Sales Draft generated by a
10 transaction that is not the result of a credit card transaction between the cardholder
11 and the Merchant; or (c) obtaining access to the credit card system through the use
12 of a business relationship or an affiliation with a Merchant, when such access is not
13 authorized by the Merchant Account agreement or the applicable credit card
14 system.

15 E. **“Credit Card Sales Draft”** means any record or evidence of a credit
16 card transaction.

17 F. **“Defendant(s)”** means all of the Individual Defendants and the
18 Corporate Defendants, individually, collectively, or in any combination.

19 G. **“Financial Institution”** means any institution the business of which is b e
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1 association, cooperative, government or governmental subdivision or agency, or
2 any other group or combination acting as an entity.

3 O. **“Receiver”** means the receiver appointed in Section IV. J of the
4 Preliminary Injunction (Docket No. 111) and any deputy receivers that shall be
5 named by the receiver.

6 P. **“Settling Defendant”** means Thermography for Life, LLC, also d/b/a
7 Living Exceptionally, Inc., and each of its subsidiaries, affiliates, successors, and
8 assigns.

9 **ORDER**

10 **I. PROHIBITIONS RELATED TO THE SALE OF BUSINESS**
11 **COACHING PROGRAMS AND INVESTMENT OPPORTUNITIES**

12 IT IS ORDERED that Settling Defendant is permanently restrained and
13 enjoined from:

14 A. Creating, advertising, marketing, promoting, offering for sale, or
15 selling, or assisting others in creating, advertising, marketing, promoting, offering

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1 B. Making, or assisting others in making, directly or by implication, any
2 false or misleading statement in order to obtain Payment Processing services;

3 C. Failing to disclose to an Acquiring Bank or other Financial Institution,
4 service provider, payment processor, independent sales organization, or other entity
5 that enables a Person to accept payments of any kind any material information
6 related to a Merchant Account including, but not limited to, the identity of any
7 owner, manager, director, or officer of the applicant for or holder of a Merchant
8 Account, and any connection between an owner, manager, director, or officer of the
9 applicant for or holder of a Merchant Account and any third person who has been
10 or is placed in a Merchant Account monitoring program, had a Merchant Account
11 terminated by a payment processor or a Financial Institution, or has been fined or
12 otherwise disciplined in connection with a Merchant Account by a payment
13 processor or a Financial Institution; and

14 D. Engaging in any tactics to circumvent fraud and risk monitoring
15 programs established by any Financial Institution, Acquiring Bank, or the operators
16 of any payment system, including, but not limited to, tactics such as balancing or
17 distributing sales transactions among multiple Merchant Accounts or merchant
18 billing descriptors; splitting a single sales transaction into multiple smaller
19 transactions; or using a shell company to apply for a Merchant Account.

20 **III. PROHIBITION AGAINST MISREPRESENTATIONS**

21 IT IS FURTHER ORDERED that Settling Defendant, its officers, agents,
22 employees, and attorneys, and all other Persons in active concert or participation
23 with any of them, who receive actual notice of this Order, whether acting directly
24 or indirectly, in connection with the advertising, marketing, promoting, or offering
25 for sale of any good or service, are permanently restrained and enjoined from
26 misrepresenting or assisting others in misrepresenting, expressly or by implication,
27 any material fact, including, but not limited to:
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1 A. Consumers who purchase Settling Defendant’s goods or services will
2 earn or are likely to earn substantial income;

3 B. Consumers who purchase Settling Defendant’s goods or services will
4 receive business coaching that will provide what the consumers need to build a
5 successful online business; and

6 C. Any other fact material to consumers concerning any good or service,
7 such as: the total costs; any refund policy; any material restrictions, limitations, or
8 conditions; or any material aspect of its performance, efficacy, nature, or central
9 characteristics.

10 **IV. MONETARY JUDGMENT AND PARTIAL SUS S cy = r**

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1 4. the documentation submitted via email from Settling Defendant's
2 counsel Andrew Gordon to Commission counsel Andrew Hudson, Laura Basford,
3 and Jody Goodman on May 30, 2018 at 12:39 PM Eastern time, regarding Settling
4 Defendant.

5 G. The suspension of the judgment will be lifted if, upon motion by the
6 Commission, the Court finds that Settling Defendant failed to disclose any material
7 asset, materially misstated the value of any asset, or made any other material
8 misstatement or omission in the financial representations identified above.

9 H. If the suspension of the judgment is lifted, the judgment becomes
10 immediately due in the amount specified in Subsection A above (which the parties
11 stipulate only for purposes of this Section represents the consumer injury alleged in
12 the Complaint), less any payment previously made pursuant to this Section, and
13 any payment(s) made by or on behalf of any Non-Settling Defendant to the
14 Commission pursuant to a Final Order in this action as to such Non-Settling
15 Defendant, plus interest computed from the date of entry of this Order.

16 I. Settling Defendant relinquishes dominion and all legal and equitable
17 right, title, and interest in all assets transferred pursuant to this Order and may not
18 seek the return of any assets.

19 J. The facts alleged in the Complaint will be taken as true, without
20 further proof, in any subsequent civil litigation by or on behalf of the Commission,
21 including in a proceeding to enforce its rights to any payment or monetary
22 judgment pursuant to this Order, such as a nondischargeability complaint in any
23 bankruptcy case.

24 K. The facts alleged in the Complaint establish all elements necessary to
25 sustain an action by the Commission pursuant to Section 523(a)(2)(A) of the
26 Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral
27 estoppel effect for such purposes.

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L. Settling Defendant acknowledges that its Taxpayer Identification
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1 LLC, also d/b/a Living Exceptionally, Inc. Any party or the Receiver may request
2 that the Court extend the receivership over Thermography for Life, LLC, also d/b/a
3 Living Exceptionally, Inc., for good cause.

4 **VIII. ORDER ACKNOWLEDGMENTS**

5 IT IS FURTHER ORDERED that Settling Defendant obtain
6 acknowledgments of receipt of this Order:

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

10 B. For 20 years after entry of this Order, Settling Defendant must deliver
11 ~~an copy of~~ this Order to: (1) all principals, offi

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1 representatives of the Commission may use to communicate with Settling
2 Defendant; (b) identify all of Settling Defendant's businesses by all of their names,
3 telephone numbers, and physical, postal, email, and Internet addresses; (c) describe
4 the activities of each business, including the goods and services offered, the means
5 of advertising, marketing, and sales, and the involvement of any other Defendant;
6 (d) describe in detail whether and how Settling Defendant is in compliance with
7 each Section of this Order; and (e) provide a copy of each Order Acknowledgment
8 obtained pursuant to this Order, unless previously submitted to the Commission.

9 B. For 20 years after entry of this Order, Settling Defendant must submit
10 a compliance notice, sworn under penalty of perjury, within 14 days of any change
11 in the following:

12 1. Settling Defendant must report any change in: (a) any designated
13 point of contact; or (b) the structure of Settling Defendant or any entity that
14 Settling Defendant has any ownership interest in or controls directly or indirectly
15 that may affect compliance obligations arising under this Order, including:
16 creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or
17 affiliate that engages in any acts or practices subject to this Order.

18 C. Settling Defendant must submit to the Commission notice of the filing
19 of any bankruptcy petition, insolvency proceeding, or similar proceeding by or
20 against Settling Defendant within 14 days of its filing.

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

27 E. Unless otherwise directed by a Commission representative in writing,
28 all submissions to the Commission pursuant to this Order must be emailed to

1 DEbrief@ftc.gov

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