

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	Civil No. 06 C 2574
)	
v.)	Chief Judge James F. Holderman
)	
DATAKOM MARKETING INC., et al.,)	Magistrate Judge Maria Valdez
)	
Defendants.)	
)	

**STIPULATED ORDER FOR PERMANENT INJUNCTION AND FINAL JUDGMENT
AGAINST DEFENDANT PAUL BARNARD**

Plaintiff Federal Trade Commission ("FTC" or "Commission"), pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), filed its Amended Complaint for injunctive and other equitable relief, alleging that Defendants Datacom Marketing Inc., Ontario Corporation No. 1431798; Datacom Direct Inc., Ontario Corporation No. 1417524; Bernard Fromstein; Judy Provencher; Paul Barnard; Judy Neinstein; Stanley Fromstein; and Charles P. Farrugia, individually and as owners, officers, or directors of the corporate defendants, engaged in deceptive acts and practices in connection with the offering for sale, sale, or distribution of business directories and listings, in violation of Section 5 of the FTC Act, 15 U.S.C. § 45.

Defendant Paul Barnard, having been represented by counsel, and acting by and through said counsel, has consented to the entry of this Stipulated Order for Permanent Injunction and

Final Judgment Against Defendant Paul Barnard (“Order”) without a trial or adjudication of any issue of law or fact herein.

NOW THEREFORE, the Plaintiff and Defendant Paul Barnard, having requested that the Court enter this Order, and the Court having considered the Order reached between the parties, **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** as follows:

FINDINGS

1. The Amended Complaint is an action by the Commission instituted under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b). Pursuant to this section of the FTC Act, the Commission has the authority to seek the relief contained herein.

2. The Amended Complaint states a claim upon which relief may be granted against the Defendants under Sections 5 and 13(b) of the FTC Act, 15 U.S.C. §§ 45 and 53(b).

3. This Court has jurisdiction over the subject matter of this case and over the parties to this Order. Venue in the Northern District of Illinois is proper.

4. The alleged practices of the Defendants are in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

5. Defendant Paul Barnard waives all rights to seek judicial review or otherwise challenge or contest the validity of this Order. Defendant Paul Barnard further waives and releases any claims that he may have against the Commission, its employees, representatives, or agents.

6. Defendant Paul Barnard agrees that this Order does not entitle him to seek or obtain attorneys’ fees as a prevailing party 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 Defendant

Paul Barnard further waives any right to attorneys' fees that may arise under said provision of law. The parties shall each bear their own costs and attorneys' fees incurred in this action.

7. Defendant Paul Barnard denies liability for any of the actions alleged in the Amended Complaint, and this Order does not constitute, and shall not be interpreted to constitute, either an admission by Defendant Paul Barnard of any wrongdoing or a finding by the Court that any Defendant has engaged in any violation of law.

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

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

DEFINITIONS

1. **"Plaintiff," "Commission," or "FTC"** means the Federal Trade Commission.

2. **"Defendants"** means Datacom Marketing Inc., Ontario Corporation No. 1431798; Datacom Direct Inc., Ontario Corporation No. 1417524; Bernard Fromstein; Judy Provencher; Paul Barnard; Judy Neinstein; Stanley Fromstein; and Charles P. Farrugia, and each of them, by whatever names each might be known.

3. **"Defendant Barnard"** means Paul Barnard, by whatever name he might be known.

4. **"Amended Complaint"** means the Amended Complaint dated November 14, 2006, filed instanter November 21, 2006, Document No. 94.

5. **"Account number"** means any credit or debit card number, bank account number, deposit account number, personal identification number ("PIN"), access code, or security code, needed to charge or debit a consumer's account.

6. **“Asset”** or **“assets”** means any legal or equitable interest in, right to, or claim to, any real or personal property, including, but not limited to, goods, instruments, equipment, fixtures, general intangibles, effects, inventory, checks, notes, chattels, leaseholds, contracts, mails or other deliveries, shares of stock, lists of consumer names, accounts, credits, receivables, funds, monies, and all cash, wherever located, and shall include both existing assets and assets acquired after the date of entry of this Order.

7. **“Assisting others”** means providing any of the following goods or services to any person or entity engaged in telemarketing: (a) providing for or arranging for the provision of mail or telephone lists that contain, incorporate, or utilize consumers’ account numbers; (b) preparing or providing, or causing to be prepared or provided, telephone sales scripts or other materials for use in connection with the promotion of products or services to consumers; (c) providing, mailing or shipping, or arranging for the provision, mailing, or shipping, of fulfillment products or services; (d) providing or arranging for the provision of telemarketing services; (e) providing or facilitating the means of obtaining payment from consumers, by providing or facilitating access to the credit card or bank account payment and collection system; (f) performing or providing marketing services of any kind; (g) developing, providing, or arranging for the provision of names of potential customers; (h) providing or arranging for the provision of post office boxes or the services of commercial receiving agencies; (i) preparing, printing, or transmitting invoices; (j) recording or verifying sales solicitations; and (k) performing customer service functions, including, but not limited to, receiving or responding to consumer complaints, obtaining or receiving identifying and financial information from consumers, and communicating with consumers on behalf of the seller or telemarketer.

8. **“Consumer”** means any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.

9. **“Customer”** means any person who has paid, or may be required to pay, for goods or services offered for sale or sold by Defendants.

10. **“Document”** is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes, but is not limited to, writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

11. **“Material”** means likely to affect a person’s choice of, or conduct regarding, goods or services.

12. **“Person”** or **“persons”** 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.

13. **“Telemarketing”** means a plan, program, or campaign (whether or not covered by the Telemarketing Sales Rule, 16 C.F.R. Part 310) which is conducted to induce the purchase of goods or services or a charitable contribution, by use of one or more telephones.

ORDER

I. PROHIBITED BUSINESS ACTIVITIES

IT IS THEREFORE ORDERED that Defendant Barnard, and his officers, directors, agents, servants, employees, salespersons, independent contractors, corporations, subsidiaries,

affiliates, successors, and assigns, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, in connection with the advertising, promotion, offering for sale, sale, or provision of any good or service, are hereby permanently restrained and enjoined from:

A. Misrepresenting, expressly or by implication:

1. That consumers have a preexisting business relationship with any Defendant or other person;
2. That consumers have agreed to purchase business directories or listings in business directories; or
3. That consumers owe money for business directories or listings in business directories;

B. Misrepresenting, expressly or by implication, or failing to disclose, any fact material to a consumer's decision to purchase or use any product, program, good, or service;

C. Failing to disclose in outbound telephone calls to consumers, promptly and in a clear and conspicuous manner: (1) the identity of the seller; (2) that the purpose of the call is to sell goods or services; and, (3) the nature of the goods or services;

D. Violating any provision of the Telemarketing Sales Rule, 16 C.F.R. Part 310, *provided, however*, that if the Commission promulgates rules that modify or supersede the Telemarketing Sales Rule, in whole or in part, Defendants and their representatives shall comply

fully and completely with all applicable requirements thereof, on and after the effective date of any such rules; and

E. Assisting others who violate any provision of Section I of this Order.

II. MONETARY JUDGMENT

IT IS FURTHER ORDERED that:

A. Judgment is hereby entered in favor of Plaintiff, and against Defendant Barnard, jointly and severally with the other Defendants, in the amount of forty two million, four hundred twelve thousand, three hundred eight U.S. Dollars (\$42,412,308 USD), the estimated total United States consumer injury from July 31, 2000, through July 31, 2004, as equitable monetary relief for consumer injury; *provided, however*, that this judgment shall be suspended: (1) upon fulfillment of the payment obligations set forth in Sections II.B and II.C of this Order; and (2) as long as the Court makes no finding, as provided in Section III of this Order, that Defendant Barnard materially misrepresented or omitted the nature, existence, or value of any asset;

B. Defendant Barnard shall be liable for payment of equitable monetary relief, including, but not limited to, consumer redress and/or disgorgement, in the amount of fifty thousand U.S. Dollars (\$50,000 USD). Within fifteen (15) days of the signing of this Order by Defendant Barnard, Defendant Barnard shall cause that amount (\$50,000 USD) to be transferred to an interest bearing escrow account controlled by Defendant Barnard's counsel of record in this action, who shall immediately provide the Commission with proof of said transfer. Defendant Barnard's counsel shall hold the entire sum in the escrow account for no purpose other than payment to the Commission upon entry of this Order by the Court. Within ten (10) days of receipt of notice of entry of this Order by the Court, Defendant Barnard's counsel shall transfer

the entire sum plus any interest to the Commission in the form of a wire transfer or certified or cashier's check made payable to the Federal Trade Commission. The check or written confirmation of the wire transfer shall be delivered to: Associate Director for Enforcement, Federal Trade Commission, 601 New Jersey Avenue N.W., Washington, D.C. 20580, Re: *FTC v. Datacom Marketing Inc., et al.*, Civil Action No. 06 C 2574 (N.D. Ill. 2006). The cover letter accompanying the check shall include the title and case number of this case;

C. Time is of the essence for the payment specified above. In the event that Defendant Barnard does not fulfill, or only partially fulfills, the payment obligations set forth in this Section, Defendant Barnard shall be immediately liable for payment of forty two million, four hundred twelve thousand, three hundred eight U.S. Dollars (\$42,412,308 USD), which is the entire amount of the judgment, plus interest computed pursuant to 28 U.S.C. § 1961, as amended, less any payments already made;

D. All funds paid 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, consumer redress, and any attendant expenses for the administration of such equitable relief. Defendant Barnard shall cooperate fully to assist the Commission in identifying consumers who may be entitled to redress pursuant to this Order. In the event that direct redress to consumers is wholly or partially impracticable or funds remain after redress 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 Amended Complaint. Any funds not used for such equitable relief shall be deposited to the United States Treasury as disgorgement. Defendant Barnard shall have no right to challenge the

Commission's choice of remedies under this Part. Defendant Barnard shall have no right to contest the manner of distribution chosen by the Commission. No portion of any payments under the judgment herein shall be deemed a payment of any fine, penalty, or punitive assessment;

E. In the event of any default on Defendant Barnard's obligation to make payment under this Section, interest, computed pursuant to 28 U.S.C. § 1961, as amended, shall accrue from the date of default to the date of payment, and shall immediately become due and payable;

F. In accordance with 31 U.S.C. § 7701, Defendant Barnard is hereby required, unless he already has done so, to furnish to the Commission his taxpayer identifying numbers (social insurance numbers or employer identification numbers), which shall be used for purposes of collecting and reporting on any delinquent amount arising out of his relationship with the government. Defendant Barnard is further required, unless he already has done so, to provide the Commission with clear, legible and full-size photocopies of all valid driver's licenses that he possesses, which will be used for reporting and compliance purposes;

G. Defendant Barnard agrees that the facts as alleged in the Amended Complaint filed in this action shall be taken as true, without further proof, in the event of any subsequent proceedings or litigation to enforce this Order or to collect amounts due pursuant to this Section, including, but not limited to, a non-dischargeability complaint in any bankruptcy case; and

H. Proceedings instituted under this Section are in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including any other proceedings the Commission may initiate to enforce this Order.

III. RIGHT TO REOPEN

IT IS FURTHER ORDERED that:

A. Within ten (10) business days after the date of entry of this Order by the Court, Defendant Barnard shall submit to the Commission a truthful sworn statement, in the form shown on **Attachment A** of this Order, that shall reaffirm and attest to the truthfulness, accuracy, and completeness of the financial statements and attachments submitted to the Commission, dated May 19, 2006, and January 7, 2007. Plaintiff's agreement to this Order is expressly premised upon the truthfulness, accuracy, and completeness of Defendant Barnard's financial condition, as represented in the financial statements and attachments referenced above, which contain material information upon which Plaintiff relied in negotiating and agreeing to the terms of this Order;

B. If, upon motion of the FTC, the Court finds that Defendant Barnard failed to disclose any material asset, materially misrepresented the value of any asset, or made any other material misrepresentation in or omission from Defendant Barnard's sworn financial statement or supporting documents, the Court shall enter judgment against Defendant Barnard, in favor of the Commission, in the amount of forty two million, four hundred twelve thousand, three hundred eight U.S. Dollars (\$42,412,308 USD), and the entire amount of the judgment shall become immediately due and payable, less any amount already paid. *Provided, however*, that, in all other respects, this Order shall remain in full force and effect, unless otherwise ordered by the Court; and

C. Any proceedings instituted under this Section shall be in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including, but not

limited to, contempt proceedings, or any other proceedings that the Commission or the United States might initiate to enforce this Order. For purposes of this Section, Defendant Barnard waives any right to contest any of the allegations in the Commission's Amended Complaint.

IV. DISCLOSURE OF CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Defendant Barnard, and his officers, directors, agents, servants, employees, salespersons, independent contractors, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any person, trust, corporation, subsidiary, division, or other device, or any of them, are hereby permanently restrained and enjoined from:

A. Selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, Social Security number, account number, e-mail address, or other identifying information of any person about whom any Defendant obtained such information in connection with the activities alleged in the Amended Complaint; and

B. Benefiting from or using the name, address, telephone number, Social Security number, account number, e-mail address, or other identifying information of any person about whom any Defendant obtained such information in connection with the activities alleged in the Amended Complaint.

Provided, however, that Defendant Barnard may disclose identifying information to a law enforcement agency or as required by any law, regulation, or court order.

V. CEASE COLLECTION ON ACCOUNTS

IT IS FURTHER ORDERED that Defendant Barnard, and his officers, directors, agents, servants, employees, salespersons, independent contractors, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any person, trust, corporation, subsidiary, division, or other device, or any of them, are hereby permanently restrained and enjoined from collecting or attempting to collect, or assigning any right to collect payment for any business directory and/or listing in any business directory, directly or through any third party, on any U.S. consumer account established prior to entry of this Order.

VI. RETURN OF UNCASHED CHECKS

IT IS FURTHER ORDERED that Defendant Barnard waives and releases all rights, claims, and interests in all uncashed checks and other negotiable instruments, totaling approximately four hundred seventy thousand U.S. Dollars (\$470,000 USD), sent by U.S. consumers in response to Defendants' telemarketing, invoices and/or collection activities related to business directories or listings in business directories. Said uncashed checks and negotiable instruments shall not be cashed, but shall be returned to their makers by the Commission or its agent; and the Commission or its agent is authorized for this purpose to open any mail addressed to any Defendant that is or has been forwarded to the Commission and to dispose of such mail as the Commission, in its sole discretion, determines to be appropriate. In the event that the makers of the uncashed checks or negotiable instruments cannot be located, or the Commission, in its

sole discretion, determines that the return of checks or negotiable instruments is otherwise impracticable, the Commission or its agent shall destroy the checks or negotiable instruments.

VII. COOPERATION WITH FTC COUNSEL

IT IS FURTHER ORDERED that Defendant Barnard shall, in connection with this action or any subsequent investigations related to or associated with the transactions or the occurrences that are the subject of the FTC's Amended Complaint, cooperate in good faith with the FTC and appear or cause his officers, employees, representatives, or agents to appear at such places and times as the FTC shall reasonably request, after written notice, for interviews, conferences, pretrial discovery, review of documents, and for such other matters as may be reasonably requested by the FTC. If requested in writing by the FTC, Defendant Barnard shall appear or cause his officers, employees, representatives, or agents to appear and provide truthful testimony in any trial, deposition, or other proceeding related to or associated with the transactions or the occurrences that are the subject of the Amended Complaint, without the service of a subpoena.

VIII. MONITORING COMPLIANCE OF SALES PERSONNEL

IT IS FURTHER ORDERED that, in connection with any business where (1) Defendant Barnard is the majority owner of the business or directly or indirectly manages or controls the business, and where (2) the business is engaged in, or is assisting others engaged in, telemarketing to U.S. consumers, Defendant Barnard, and his agents, employees, officers, corporations, successors, and assigns, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby permanently restrained and enjoined from:

A. Failing to take reasonable steps sufficient to monitor and ensure that all employees and independent contractors engaged in sales or other customer service functions comply with Section I of this Order. These steps shall include adequate monitoring of sales presentations or other calls with consumers, and shall also include, at a minimum, the following: (1) listening to the oral representations made by persons engaged in sales or other customer service functions; (2) establishing a procedure for receiving and responding to consumer complaints; and (3) ascertaining the number and nature of consumer complaints regarding transactions in which each employee or independent contractor is involved;

B. Failing promptly to investigate fully any consumer complaint received by any business to which this Section applies; and

C. Failing to take adequate corrective action with respect to any employee or independent contractor whom Defendant Barnard determines is not complying with this Order. This corrective action may include training, disciplining, and/or terminating such employee or independent contractor.

IX. COMPLIANCE MONITORING

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

A. Within ten (10) days of receipt of written notice from a representative of the Commission, Defendant Barnard shall submit additional written reports, sworn to or affirmed under penalty of perjury; produce documents for inspection and copying; appear for deposition; and/or provide entry during normal business hours to any business location in Defendant Barnard's possession or direct or indirect control to inspect the business operation;

B. In addition, the Commission is authorized to monitor compliance with this Order by all other lawful means, including, but not limited to, the following:

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, and 45;
2. posing as consumers and suppliers to: Defendant Barnard; his employees, or any other entity managed or controlled in whole or in part by him, without the necessity of identification or prior notice;

C. Defendant Barnard 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)).

X. COMPLIANCE REPORTING

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

- A. For a period of five (5) years from the date of entry of this Order,
 1. Defendant Barnard shall notify the Commission of the following:

a. Any changes in residence, mailing addresses, and telephone numbers of Defendant Barnard, within ten (10) days of the date of such change;

b. Any changes in employment status (including self-employment) of Defendant Barnard, and any change in the ownership interest of Defendant Barnard 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 Defendant Barnard is affiliated with, employed by, creates or forms, or performs services for; a statement of the nature of the business; and a statement of Defendant Barnard's duties and responsibilities in connection with the business or employment; and

c. Any changes in Defendant Barnard's name or use of any aliases or fictitious names; and

2. Defendant Barnard shall notify the Commission of any changes in corporate structure or any business entity that Defendant Barnard directly or indirectly control(s), or has an ownership interest in, that may affect compliance obligations arising under this Order, including, but not limited to, a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor entity; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; the filing of a bankruptcy petition; or a change in the corporate or business entity's name or address, at least thirty (30) days prior to such change, *provided* that, with respect to any proposed change in the corporation or business entity about which Defendant Barnard learns less than thirty (30) days prior to the date such action is to take place, Defendant Barnard 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, Defendant Barnard shall provide a written report to the Commission, sworn to under penalty of perjury, setting forth in detail the manner and form in which he has complied and is complying with this Order. This report shall include, but not be limited to:

1. The then-current residence address, mailing addresses, and telephone numbers of Defendant Barnard;

2. The then-current employment and business addresses and telephone numbers of Defendant Barnard, a description of the business activities of each such employer or business, and the title and responsibilities of Defendant Barnard for each such employer or business;

3. A copy of each acknowledgment of receipt of this Order, obtained pursuant to Paragraph D of Section XII; and

4. Any other changes required to be reported under Paragraph A of this Section.

C. For the purposes of this Order, Defendant Barnard shall, unless otherwise directed by the Commission's authorized representatives, mail all written notifications to the Commission to:

Associate Director for Enforcement
Federal Trade Commission
601 New Jersey Avenue N.W.
Washington, D.C. 20580
Re: *FTC v. Datacom Marketing Inc., et al.*
Civil Action No. 06 C 2574 (N.D. Ill. 2006)

D. For purposes of the compliance reporting and monitoring required by this Order, the Commission is authorized to communicate directly with Defendant Barnard.

XI. RECORD KEEPING PROVISIONS

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry of this Order, for any business where (1) Defendant Barnard is the majority owner of the business or directly or indirectly manages or controls the business, and where (2) the business is engaged in, or is assisting others engaged in, telemarketing to U.S. consumers, Defendant Barnard, and his agents, employees, officers, corporations, successors, and assigns, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from failing to create and retain the following records:

A. Accounting records that reflect the cost of goods or services 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 items or services purchased, and description of items or services 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, 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 Paragraph D of Section XII, and all reports submitted to the FTC pursuant to Section X.

XII. DISTRIBUTION OF ORDER

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Order, Defendant Barnard shall deliver copies of the Order as directed below:

A. **Defendant Barnard as Control Person:** For any business that Defendant Barnard controls, directly or indirectly, or in which such Defendant has a majority ownership interest, where the business is engaged in, or is assisting others in, telemarketing to U.S. consumers, Defendant Barnard must deliver a copy of this Order to all principals, officers, directors, and managers of that business. Defendant Barnard must also deliver copies of this Order to all employees, agents, and representatives of that business who engage in conduct related to the subject matter of the Order. For current personnel, delivery shall be within five (5) days of service of this Order upon Defendant Barnard. For new personnel, delivery shall occur prior to them assuming their responsibilities.

B. **Defendant Barnard as Employee or Non-Control Person:** For any business where Defendant Barnard is not a controlling person of a business but otherwise engages in conduct related to the subject matter of this Order, Defendant Barnard must deliver a copy of this Order to all principals and managers of such business before engaging in such conduct; and

C. Defendant Barnard must secure a signed and dated statement acknowledging receipt of this Order, within thirty (30) days of delivery, from all persons receiving a copy of the Order pursuant to this Section.

XIII. ACKNOWLEDGMENT OF RECEIPT OF ORDER

IT IS FURTHER ORDERED that Defendant Barnard, within five (5) business days of receipt of this Order as entered by the Court, must submit to the Commission a truthful sworn statement, in the form shown on **Attachment B** to this Order, acknowledging receipt of this Order.

XIV. LIFTING OF ASSET FREEZE

IT IS FURTHER ORDERED that the freeze on the assets of Defendant Barnard shall remain in effect until the Commission has received all payments required by Section II.B above, *provided, however,* that Defendant Barnard may transfer funds to the extent necessary to make all payments required by Paragraph B of Section II.

XV. SEVERABILITY

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

XVI. 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.

JUDGMENT IS THEREFORE ENTERED in favor of the Plaintiff and against

Defendant Barnard pursuant to all the terms and conditions recited above.

IT IS SO ORDERED:

Dated: _____, 2007

Honorable James F. Holderman
Chief Judge, United States District Court

SO STIPULATED:

William Blumenthal
General Counsel

Dated: _____

John C. Hallerud
Federal Trade Commission
55 West Monroe Street, Suite 1825
Chicago, Illinois 60603
(312) 960-5634; Facsimile: (312) 960-5600
Attorney for Federal Trade Commission

Dated: 8/7/2007

Sally Saltzberg
Sally H. Saltzberg
Loftus & Saltzberg, P.C.
53 West Jackson Boulevard, Suite 1515
Chicago, Illinois 60604
(312) 913-2000; Facsimile: (312) 663-6406
Attorney for Defendant Paul Barnard

Dated: 2 APRIL, 2007.

[Signature]
Paul Barnard, individually