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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

Federal Trade Commission,
Plaintiff,
v.
ERG Ventures, LLC, et al.,
Defendants.

3:06-CV-00578-HDM-VPC

**ORDER**

1                   **STIPULATED FINAL ORDER FOR PERMANENT INJUNCTION AND**  
2                   **MONETARY JUDGMENT AS TO DEFENDANTS ERG VENTURES, LLC,**  
3                   **ELLIOTT S. CAMERON, ROBERT A. DAVIDSON, II, AND GARRY E. HILL**

4           Plaintiff, the Federal Trade Commission (“FTC” or the “Commission”), filed its  
5           complaint against defendants ERG Ventures, LLC and d/b/a ERG Ventures, LLC2, Media  
6           Motor, Joysticksavers.com, and PrivateinPublic.com; Elliott S. Cameron, individually and d/b/a  
7           ERG Ventures, LLC2, Media Motor, Joysticksavers.com, and PrivateinPublic.com; Robert A.  
8           Davidson, II, individually and d/b/a ERG Ventures, LLC2, Media Motor, Joysticksavers.com,  
9           and PrivateinPublic.com; Garry E. Hill, individually and d/b/a ERG Ventures, LLC2, Media  
10          Motor, Joysticksavers.com, and PrivateinPublic.com; and Timothy P. Taylor, individually and  
11          d/b/a Team Taylor Made for injunctive and other equitable relief in this matter pursuant to  
12          Sections 5 and 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a),  
13          53(b), on October 31, 2006. The Court ordered an *ex parte* Temporary Restraining Order on  
14          November 1, 2006, and a Preliminary Injunction was entered on November 29, 2006. The  
15          Commission and defendants ERG Ventures, LLC, Elliott S. Cameron, Robert A. Davidson, II,  
16          and Garry E. Hill, hereby stipulate to the entry of, and request the Court to enter, this Stipulated  
17          Final Order for Permanent Injunction and Monetary Judgment as to defendants ERG Ventures,  
18          LLC, Elliott S. Cameron, Robert A. Davidson, II, and Garry E. Hill (“Order”), to resolve all  
19          matters of dispute between them in this action.

19                   **IT IS THEREFORE STIPULATED, AGREED, AND ORDERED** as follows:

- 20           1.       This Court has jurisdiction over the subject matter of this case, and it has  
21           jurisdiction of all parties hereto pursuant to 15 U.S.C. §§ 45(a), 53(b), and 28  
22           U.S.C. §§ 1331, 1337(a), and 1345;
- 23           2.       Venue is proper as to all parties in the District of Nevada pursuant to 15 U.S.C.  
24           § 53(b) and 28 U.S.C. §§ 1391(b) and (c);
- 25           3.       The activities alleged in the amended complaint are in or affecting “commerce” as  
26           that term is defined in Section 4 of the FTC Act, 15 U.S.C. § 44;
- 27           4.       The facts that the FTC has stated in its amended complaint, if true, would state a  
28           claim upon which relief may be granted under Sections 5(a) and 13(b) of the FTC

1 Act, 15 U.S.C. §§ 45(a) and 53(b);

2 5. ERG Ventures, LLC, Elliott S. Cameron, Robert A. Davidson, II, and Garry E.  
3 Hill have entered into this Order freely and without coercion, and they  
4 acknowledge that they have read the provisions of this Order and are prepared to  
5 abide by them;

6 6. The undersigned, individually and by and through their counsel, as applicable,  
7 have agreed that the entry of this Order resolves all matters of dispute between  
8 them arising from the amended complaint in this action, up to the date of entry of  
9 this Order. This Order, however, shall have no preclusive effect as to any action  
10 brought by any other state or federal law enforcement agency;

11 7. ERG Ventures, LLC, Elliott S. Cameron, Robert A. Davidson, II, and Garry E.  
12 Hill waive all rights to seek appellate review or otherwise challenge or contest the  
13 validity of this Order and waive and release any claim they may have against the  
14 Commission, its employees, representatives, or agents;

15 8. ERG Ventures, LLC, Elliott S. Cameron, Robert A. Davidson, II, and Garry E.  
16 Hill agree that this Order does not entitle them to seek or to obtain attorneys' fees  
17 as a prevailing party under the Equal Access to Justice Act, 28 U.S.C. § 2412, as  
18 amended by Pub. L. 104-121, 110 Stat. 847, 863-64 (1996), and they further  
19 waive any rights to attorneys' fees that may arise under said provision of law;

20 9. This Order is remedial in nature and no portion of any payments paid herein shall  
21 be deemed or construed as payment of a fine, damages, penalty, or punitive  
22 assessment; and

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

24 **ORDER**

25 **DEFINITIONS**

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

- 27 1. **"Defendants"** means, individually, collectively or in any combination: ERG Ventures,  
28 LLC d/b/a ERG Ventures, LLC2, Giant Ventures, LLC, Media Motor, IMGiant,

1 Joysticksavers.com, PrivateInPublic.com, Megalocast.com, and Popuppers.com; Elliott S.  
 2 Cameron d/b/a ERG Ventures, LLC2, Giant Ventures, LLC, Media Motor, IMGiant,  
 3 Joysticksavers.com, PrivateInPublic.com, Megalocast.com, and Popuppers.com,  
 4 individually and as an officer of ERG Ventures, LLC and Giant Ventures, LLC; Robert  
 5 A. Davidson, II d/b/a ERG Ventures, LLC2, Giant Ventures, LLC, Media Motor,  
 6 IMGiant, Joysticksavers.com, PrivateInPublic.com, Megalocast.com, and  
 7 Popuppers.com, individually and as an officer of ERG Ventures, LLC and Giant  
 8 Ventures, LLC; and Garry E. Hill d/b/a ERG Ventures, LLC2, Giant Ventures, LLC,  
 9 Media Motor, IMGiant, Joysticksavers.com, PrivateInPublic.com, Megalocast.com, and  
 10 Popuppers.com, individually and as an officer of ERG Ventures, LLC and Giant  
 11 Ventures, LLC; as well as their successors and assigns.

12 2. **“Individual Defendant(s)”** means Elliott S. Cameron d/b/a ERG Ventures, LLC2, Giant  
 13 Ventures, LLC, Media Motor, IMGiant, Joysticksavers.com, PrivateInPublic.com,  
 14 Megalocast.com, and Popuppers.com; Robert A. Davidson, II d/b/a ERG Ventures,  
 15 LLC2, Giant Ventures, LLC, Media Motor, IMGiant, Joysticksavers.com,  
 16 PrivateInPublic.com, Megalocast.com, and Popuppers.com; and Garry E. Hill d/b/a ERG  
 17 Ventures, LLC2, Giant Ventures, LLC, Media Motor, IMGiant, Joysticksavers.com,  
 18 PrivateInPublic.com, Megalocast.com, and Popuppers.com.

19 3. **“Corporate Defendant(s)”** means ERG Ventures, LLC d/b/a ERG Ventures, LLC2,  
 20 Giant Ventures, LLC, Media Motor, IMGiant, Joysticksavers.com, PrivateInPublic.com,  
 21 Megalocast.com, and Popuppers.com, as well as their successors and assigns.

22 4. **“Assets”** means any legal or equitable interest in, right to, or claim to, any real, personal,  
 23 or intellectual property of any of the Corporate Defendants or Individual Defendants, or  
 24 held for the benefit of any Corporate Defendants or Individual Defendants, wherever  
 25 located, including, but not limited to, chattel, goods, instruments, equipment, fixtures,  
 26 general intangibles, effects, leaseholds, contracts, mail or other deliveries, shares of stock,  
 27 inventory, checks, notes, accounts, credits, receivables (as those terms are defined in the  
 28 Uniform Commercial Code), cash, and trusts, including but not limited to any other trust

1 held for the benefit of any Corporate Defendant or Individual Defendant, or any of the  
2 Individual Defendants' minor children, or spouses.

3 5. "Document" is synonymous in meaning and equal in scope to the usage of the term in  
4 the Federal Rules of Civil Procedure 34(a), and includes writing, drawings, graphs,  
5 charts, Internet sites, Web pages, Web sites, electronically-stored information, including  
6 e-mail and instant messages, photographs, audio and video recordings, contracts,  
7 accounting data, advertisements (including, but not limited to, advertisements placed on  
8 the World Wide Web), FTP Logs, Server Access Logs, USENET Newsgroup postings,  
9 Web pages, books, written or printed records, handwritten notes, telephone logs,  
10 telephone scripts, receipt books, ledgers, personal and business canceled checks and  
11 check registers, bank statements, appointment books, computer records, and other data  
12 stored in any medium from which information can be obtained and translated. A draft or  
13 non-identical copy is a separate document within the meaning of the term.

14 6. "Affiliate Program(s)" means an arrangement under which any of the Defendants pay or  
15 offer to pay another ("the affiliate") to market, advertise, distribute, download or install  
16 software or other goods or services on behalf of any of the Defendants, with the affiliate  
17 being paid based on performance measures, such as the number of software installations  
18 or downloads.

19 7. "Software" means any file, program, application, content, code or set of instructions that  
20 controls, directs, or assists in the operation of a computer and/or instructs a computer as  
21 to what tasks to perform.

## 22 CONDUCT PROHIBITIONS

### 23 I.

24 **IT IS THEREFORE ORDERED** that the Defendants, as well as their officers, agents,  
25 servants, employees and those persons in active concert or participation with them who receive  
26 actual notice of this Order by personal service or otherwise, are permanently restrained and  
27 enjoined from, prior to installing any Software directly or indirectly on consumers' computers:

28 1) failing to clearly and conspicuously disclose the name and function of all such Software (the

1 "Required Disclosure"); and 2) failing to provide, immediately after the Required Disclosure is  
2 made, a clearly and conspicuously disclosed option to prevent the installation of all such  
3 Software, which, when exercised by the consumer, prevents the installation of all such Software.

4 **II.**

5 **IT IS FURTHER ORDERED** that the Defendants, as well as their officers, agents,  
6 servants, employees and those persons in active concert or participation with them who receive  
7 actual notice of this Order by personal service or otherwise, are permanently restrained and  
8 enjoined from, directly or indirectly, publishing, disseminating, distributing, installing, or  
9 downloading any Software that interferes with a consumer's computer use, including but not  
10 limited to Software that:

- 11 A. tracks consumers' Internet activity or collects other personal information;
- 12 B. changes consumers' preferred Internet homepage settings;
- 13 C. inserts a new advertising toolbar onto consumers' Internet browsers;
- 14 D. generates numerous "pop up" advertisements on consumers' computer screens  
15 even when consumers' Internet browsers are closed;
- 16 E. adds advertising icons to the computer's desktop;
- 17 F. tampers with, disables, or otherwise alters the performance of other programs,  
18 including anti-spyware and anti-virus programs;
- 19 G. alters Internet browser security settings, including the list of safe or trusted  
20 websites; or
- 21 H. installs other advertising Software on consumers' computers.

22 **III.**

23 **IT IS FURTHER ORDERED** that, in connection with distributing or advertising,  
24 promoting, marketing, offering for sale or license, or selling or licensing, any product or service,  
25 the Defendants, as well as their officers, agents, servants, employees and those persons in active  
26 concert or participation with them who receive actual notice of this Order by personal service or  
27 otherwise, are permanently restrained and enjoined from making, or assisting others in making,  
28 directly or indirectly, expressly or by implication, any material false or misleading representation.

1 **MONETARY JUDGMENT**

2 **IV.**

3 **IT IS FURTHER ORDERED** that:

4 A. Judgment in the amount of \$3,596,757 (three million, five hundred ninety-six  
5 thousand, seven hundred fifty-seven dollars) is hereby entered jointly and  
6 severally against the Defendants.

7 B. This judgment shall be suspended, except as follows:

8 1. Within five (5) days after the date of entry of this Order, Defendants shall:

9 1) pay \$82,000 (eighty-two thousand dollars) from the frozen accounts  
10 listed in **Attachment A** to the United States Internal Revenue Service  
11 (“IRS”), as provided in sub-paragraph 3 below; and 2) pay the remaining  
12 balance of all accounts listed in **Attachment A** (approximately \$208,000)  
13 to the Commission by wire transfer in accord with directions provided by  
14 the Commission.

15 2. Defendant Garry E. Hill agrees to assign all right, title and interest in his  
16 share of the William A. Hill and Harriet A. Hill Family Trust (“Hill  
17 Family Trust”) to the Commission, as follows:

18 i. Except as provided in sub-section iii below, Defendant Hill hereby  
19 directs the Trustee of the Hill Family Trust (“Hill Trustee”) to pay  
20 directly to the Commission all distributions, payments or assets to  
21 which Defendant Hill is entitled under the Hill Family Trust by  
22 utilizing the wire instructions to be provided by the Commission to  
23 the Hill Trustee, or by such other method as prescribed by the  
24 Commission;

25 ii. Should the Hill Trustee fail to pay Defendant Hill’s share of the  
26 Hill Family Trust to the Commission in a timely manner,  
27 Defendant Hill shall, at his own expense, commence and prosecute  
28 a suit against the Hill Trustee in the appropriate court to compel

1 the Hill Trustee to pay Defendant Hill's share of the Hill Family  
2 Trust to the Commission;

3 iii. If Defendant Hill complies with sub-subsections i and ii above,  
4 the Commission shall not object to Defendant Hill receiving and  
5 retaining items that the Hill Trustee has determined to be of limited  
6 intrinsic value or marketability, provided that such items appear on  
7 the William A. & Harriet A. Hill Family Trust Personal Property  
8 Inventory dated December 31, 2005. This language shall not  
9 require or otherwise impact the Hill Trustee's discretion, as  
10 provided in the Trust, to determine whether Defendant Hill is  
11 entitled to any or all of these items.

12 3. Within five (5) days after the date of entry of this Order, the Individual  
13 Defendants shall pay the following totals to the IRS from the frozen  
14 accounts listed in **Attachment A** in order to wholly or partially satisfy  
15 their 2006 federal tax liability:

- 16 • Elliott S. Cameron: \$29,712 (twenty-nine thousand, seven  
17 hundred and twelve dollars)
- 18 • Robert A. Davidson: \$32,054 (thirty-two thousand, fifty-four  
19 dollars)
- 20 • Garry E. Hill: \$20,234 (twenty thousand, two hundred and thirty-  
21 four dollars)

22 Within fifteen (15) days of the tax payments, each Individual Defendant  
23 shall provide written proof to the Commission of the payments, including  
24 copies of cancelled checks and as-filed copies of their 2006 federal tax  
25 returns. Any portion of the Defendants' federal tax liability not satisfied  
26 by the payments made pursuant to this sub-paragraph shall be the sole  
27 responsibility of the Defendants, and shall not be paid from funds due to  
28 the Commission pursuant to sub-paragraphs B(1) and B(2) of this

1 Paragraph. In the event the 2006 federal tax liability of any of the  
2 Defendants is less than the totals set forth in this sub-paragraph, the  
3 Defendants shall pay the difference to the Commission.

- 4 4. Defendants agree that they will not, whether acting directly or through  
5 any corporation, partnership, subsidiary, division, trade name, device, or  
6 other entity, submit to any federal or state tax authority any return,  
7 amended return, or other official document that takes a deduction for, or  
8 seeks a tax refund or other favorable tax treatment for, any payments by  
9 one or more of the Defendants pursuant to Paragraph IV of this Order.  
10 Defendants further agree they will not seek a credit or refund of any kind  
11 for federal taxes or penalties paid for tax year 2006. However, if the  
12 Defendants otherwise obtain a credit or refund of any federal taxes or  
13 penalties paid for tax year 2006 the Defendants shall promptly pay the  
14 Commission the amount of such credit or refund, together with any  
15 interest the Defendants have earned in connection with any such credit or  
16 refund.

- 17 C. All funds paid to the FTC pursuant to the Order shall be deposited into an  
18 account administered by the Commission or its agent to be used for equitable  
19 relief, including but not limited to consumer redress, and any attendant expenses  
20 for the administration of such equitable relief. In the event that direct redress to  
21 consumers is wholly or partially impracticable or funds remain after redress is  
22 completed, the Commission may apply any remaining funds for such other  
23 equitable relief (including consumer information remedies) as it determines to be  
24 reasonably related to the Defendants' practices alleged in the amended  
25 complaint. Any funds not used for such equitable relief shall be deposited to the  
26 United States Treasury as disgorgement. The Defendants shall have no right to  
27 challenge the Commission's choice of remedies under this Paragraph. The  
28 Defendants shall have no right to contest the manner of distribution chosen by

1 the Commission.

2 D. The Defendants relinquish all dominion, control and title to the funds paid  
3 into the account established pursuant to this Order. The Defendants shall make  
4 no claim to or demand for the return of funds, directly or indirectly, through  
5 counsel or otherwise; and in the event of bankruptcy of any such defendant, the  
6 Defendants acknowledge that the funds are not part of the debtor's estate, nor  
7 does the estate have any claim or interest therein.

8 E. The Commission's agreement to this Order is expressly premised upon the  
9 truthfulness, accuracy and completeness of the Defendants' sworn financial  
10 statements and supporting documents submitted to the Commission, as well as all  
11 subsequent addenda thereto, all of which the Defendants stipulate are truthful,  
12 accurate, and complete. The Defendants and the Commission stipulate that these  
13 financial disclosures provide the basis for the assets listed in **Attachment A** to  
14 this Order and include material information upon which the Commission relied in  
15 negotiating and agreeing to this Order. The Defendants and the Commission  
16 stipulate that the Commission has relied on the truthfulness, accuracy, and  
17 completeness of these financial disclosures in agreeing to the terms of this Order  
18 and that the Commission would not have entered into this Order but for the  
19 truthfulness, accuracy, and completeness of these financial disclosures.

20 F. If, upon motion by the Commission, this Court finds that the Defendants  
21 have failed to disclose any material asset or materially misstated the value of any  
22 asset in the financial statement or related documents described above, or have  
23 made any other material misstatement or omission in the financial statements or  
24 related documents described above, then this Order shall be reopened and  
25 suspension of the judgment shall be lifted for the purpose of requiring payment of  
26 monetary relief in the amount of the judgment set forth in sub-paragraph A of this  
27 Paragraph, less the sum of any amounts paid to the Commission pursuant to  
28 sub-paragraph B of this Paragraph. *Provided, however,* that in all other respects

1 this Order shall remain in full force and effect, unless otherwise ordered by the  
2 Court.

3 G. Upon such reinstatement of the monetary judgement, the Court shall make an  
4 express determination that the monetary judgment shall be immediately due and  
5 payable. The Commission shall be entitled to interest on the judgment, computed  
6 from the day of entry of this Order, at the rate prescribed by 18 U.S.C. § 1961, as  
7 amended. The Commission shall be permitted to execute on the judgment  
8 immediately after the suspension is lifted and engage in discovery in aid of  
9 execution.

10 H. The Defendants agree that the facts as alleged in the amended complaint filed in  
11 this action shall be taken as true for the purpose of a nondischargeability  
12 complaint in any bankruptcy proceeding.

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

16 **LIFTING OF ASSET FREEZE**

17 **V.**

18 **IT IS FURTHER ORDERED** that the freeze against the assets of the Defendants  
19 pursuant to Paragraph III of the Preliminary Injunction Order entered by this Court on November  
20 29, 2006 ("Preliminary Injunction"), shall be lifted for the sole purpose of transferring funds  
21 pursuant to Paragraph IV of this Order, and shall be dissolved upon transfer of all such funds.

22 **COMPLIANCE MONITORING**

23 **VI.**

24 **IT IS FURTHER ORDERED** that, for purposes of monitoring and investigating  
25 compliance with any provision of this Order,

26 A. Within ten (10) days of receipt of written notice from a representative of the  
27 Commission, Elliott S. Cameron, Robert A. Davidson, II, Garry E. Hill and ERG  
28 Ventures, LLC, each shall submit additional written reports, sworn to under

1 penalty of perjury; produce documents for inspection and copying; appear for  
2 deposition; and/or provide entry during normal business hours to any business  
3 location in such defendant's possession or direct or indirect control to inspect the  
4 business operation;

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

- 7 1. obtaining discovery from any person, without further leave of court, using  
8 the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45;  
9 2. posing as consumers and suppliers to Defendants, Defendants' employees,  
10 or any other entity managed or controlled in whole or in part by Elliott S.  
11 Cameron, Robert A. Davidson, II, Garry E. Hill or ERG Ventures, LLC,  
12 without the necessity of identification or prior notice; and

13 C. Defendants shall permit representatives of the Commission to interview any  
14 employer, consultant, independent contractor, representative, agent, or employee  
15 who has agreed to such an interview, relating in any way to any conduct subject to  
16 this Order. The person interviewed may have counsel present.

17 *Provided, however,* that nothing in this Order shall limit the Commission's lawful use of  
18 compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to  
19 obtain any documentary material, tangible things, testimony, or information relevant to unfair or  
20 deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. §  
21 45(a)(1)).

## 22 MONITORING BY DEFENDANTS

### 23 VII.

24 **IT IS FURTHER ORDERED** that, for a period of eight (8) years from the date of entry  
25 of this Order, the Individual and Corporate Defendants, and their officers, agents, directors,  
26 employees, salespersons, independent contractors, subsidiaries, affiliates, successors, assigns,  
27 and all other persons in active concert or participation with any of them who receive actual notice  
28 of this Order by personal service or otherwise, in connection with the advertising, promotion,

1 marketing, offering for sale, sale, or provision of any goods or services on or through the Internet,  
2 the World Wide Web, or any web page or web site, are hereby permanently restrained and  
3 enjoined from failing to:

4 A. Obtain contact information from any participant in any Affiliate Program. In the  
5 case of a natural person, Defendants shall obtain the participant's first and last  
6 name, physical address, country, telephone number, and e-mail address. In the  
7 case of other business entities, Defendants shall obtain the first and last name,  
8 physical address, country, telephone number, and e-mail address for the natural  
9 person who owns, manages, or controls the participant.

10 B. Prior to any such prospective participant's acceptance into any Affiliate Program,  
11 (1) provide each such person a copy of this Order; (2) obtain from each such  
12 person a signed and dated statement acknowledging receipt of this Order and  
13 expressly agreeing to comply with this Order; and (3) clearly and prominently  
14 disclose that engaging in acts or practices prohibited by this Order will result in  
15 immediate termination of the affiliate and forfeiture of all monies received or  
16 owed;

17 C. Establish, implement, and maintain an Internet-based mechanism, including, but  
18 not limited to, e-mail that enables: (1) consumers to report complaints to  
19 Defendants regarding the practices of any affiliate program participant; (2)  
20 Defendants to associate, correctly, each such complaint with the affiliate that is  
21 the subject of the complaint; and (3) Defendants to receive and respond to such  
22 complaints, whether received directly or indirectly, in a timely manner.

23 Defendants shall clearly and prominently disclose the existence of such reporting  
24 mechanism on their websites;

25 D. Promptly and completely investigate any complaints received through Paragraph  
26 VII(C) or any other source to determine whether any such participant is engaging  
27 in acts or practices prohibited by this Order; and

28 E. Terminate, immediately, any participant in any Affiliate Program that Defendants

1 reasonably conclude has engaged in or is engaging in acts or practices prohibited  
2 by this Order and cease payments to any such person.

3 Provided, however, that this Paragraph does not authorize or require Defendants to take  
4 any action that violates any federal, state, or local law.

5 **COMPLIANCE REPORTING BY DEFENDANTS**

6 **VIII.**

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

9 A. For a period of five (5) years from the date of entry of this Order,

10 1. Elliott S. Cameron, Robert A. Davidson, II, and Garry E. Hill, shall notify  
11 the Commission of the following:

12 i. Any changes in residence, mailing addresses, and telephone  
13 numbers of any Individual Defendant, within ten (10) days of the  
14 date of such change;

15 ii. Any changes in employment status (including self-employment), of  
16 any Individual Defendant and any change in the ownership of the  
17 Individual Defendant in any business entity, within ten (10) days of  
18 the date of such change. Such notice shall include the name and  
19 address of each business that the Individual Defendant is affiliated  
20 with, employed by, creates or forms, or performs services for; a  
21 statement of the nature of the business; and a statement of the  
22 Individual Defendant's duties and responsibilities in connection  
23 with the business or employment; and

24 iii. Any changes in the Individual Defendant's name or use of any  
25 aliases or fictitious names; and

26 B. Defendants ERG Ventures, LLC, Elliott S. Cameron, Robert A. Davidson, II, and  
27 Garry E. Hill shall notify the Commission of any changes in corporate structure of  
28 ERG Ventures, LLC or any business entity that an Individual Defendant directly

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

11 C. One hundred eighty (180) days after the date of entry of this Order, defendants  
12 ERG Ventures, LLC, Elliott S. Cameron, Robert A. Davidson, II, and Garry E.  
13 Hill each shall provide a written report to the FTC, sworn to under penalty of  
14 perjury, setting forth in detail the manner and form in which they have complied  
15 and are complying with this Order. This report shall include, but not be limited  
16 to:

- 17 1. For each Individual Defendant:
  - 18 i. The then-current residence address, mailing addresses, and  
19 telephone numbers of the Individual Defendant;
  - 20 ii. The then-current employment and business addresses and  
21 telephone numbers of the Individual Defendant, a description of  
22 the business activities of each such employer or business, and the  
23 title and responsibilities of the Individual Defendant for each such  
24 employer or business; and
  - 25 iii. Any other changes required to be reported under sub-paragraph A  
26 of this Paragraph.

1           2.     For all the Defendants:

- 2           i.     A copy of each acknowledgment of receipt of this Order obtained  
3                     by each defendant pursuant to Paragraphs VII, X and XI of this  
4                     Order; and  
5           ii.    Any other changes required to be reported under sub-paragraph A  
6                     of this Paragraph.

7     D.     Within ten (10) days of a request by the Commission, each of the Defendants shall  
8             complete, sign, date and submit to the IRS, along with the requisite IRS fee, IRS  
9             Form 4506 directing that certified copies of the Defendant's federal tax returns  
10            and any amended returns for tax years 2006 and 2007 be sent to the Commission  
11            at the address in sub-paragraph E.

12    E.     For the purposes of this Order, Defendants shall, unless otherwise directed by the  
13             Commission's authorized representatives, mail all written notifications to the  
14             Commission to:

15             Associate Director, Division of Enforcement  
16             Federal Trade Commission  
17             600 Pennsylvania Avenue, NW  
18             Washington, DC 20580  
19             Re: FTC v. ERG Ventures, LLC, et al. Civil Action No. 3:06-00578

20    F.     For purposes of the compliance reporting and monitoring required by this Order,  
21             the Commission is authorized to communicate directly with the Defendants.

22                                     **RECORD KEEPING PROVISIONS**

23   **IX.**

24     **IT IS FURTHER ORDERED** that, for a period of eight (8) years from the date of entry  
25     of this Order, defendants ERG Ventures, LLC, Elliott S. Cameron, Robert A. Davidson, II, and  
26     Garry E. Hill, for any business that such defendant directly or indirectly controls, or in which  
27     such defendant has a majority ownership interest, which is directly or indirectly engaged in the  
28     business of advertising, promoting, marketing, offering for sale or license, or selling or licensing  
any product or service via the Internet, and their agents, employees, officers, corporations,  
successors, and assigns, and those persons in active concert or participation with them who

1 receive actual notice of this Order by personal service or otherwise, are hereby restrained and  
2 enjoined from failing to create and retain the following records:

- 3       A.     Accounting records that reflect the cost of goods or services sold, revenues  
4             generated, and the disbursement of such revenues;
- 5       B.     Personnel records accurately reflecting: the name, address, and telephone number  
6             of each person employed in any capacity by such business, including as an  
7             independent contractor; that person's job title or position; the date upon which the  
8             person commenced work; and the date and reason for the person's termination, if  
9             applicable;
- 10       C.    Customer files containing the names, addresses, phone numbers, dollar amounts  
11            paid, quantity of items or services purchased, and description of items or services  
12            purchased, to the extent such information is obtained in the ordinary course of  
13            business;
- 14       D.    Records reflecting contact information and a detailed payment history for all  
15            persons and entities engaged in the marketing, distributing, or installing of  
16            Software at the direction of, or for the benefit of, the Defendants.
- 17       E.    Complaints and refund requests (whether received directly, indirectly or through  
18            any third party) and any responses to those complaints or requests;
- 19       F.    Copies of all advertisements or other marketing materials, including but not  
20            limited to web sites, instant messages, e-mail messages, Internet "pop up"  
21            advertisements, and Internet banner advertisements; and
- 22       G.    All records and documents necessary to demonstrate full compliance with each  
23            provision of this Order, including but not limited to, copies of acknowledgments  
24            of receipt of this Order, required by Paragraphs VII, X, and XI, and all reports  
25            submitted to the FTC pursuant to Paragraphs VIII and IX of this Order.
- 26  
27  
28

**DISTRIBUTION OF ORDER BY DEFENDANTS**

**X.**

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

- A. Corporate Defendants: Defendant ERG Ventures, LLC must deliver a copy of this Order to all of its principals, officers, directors, and managers as well as its employees, agents, affiliates, sub-affiliates, and representatives who engage in conduct related to the subject matter of this Order. For current personnel, delivery shall be within five (5) days of service of this Order upon such defendants. For new personnel, delivery shall occur prior to the new personnel assuming their responsibilities.
- B. Individual Defendant as Control Person: For any business that defendant Elliott S. Cameron, Robert A. Davidson, II, or Garry E. Hill directly or indirectly control, or in which such Individual Defendant has a majority ownership interest, the Individual Defendant must deliver a copy of this Order to all principals, officers, directors, and managers of that business. The Individual Defendant must also deliver copies of this Order to all employees, agents, affiliates, sub-affiliates, and representatives of that business who engage in conduct related to the subject matter of this Order. For current personnel, delivery shall be made within five (5) days' of service of this Order upon such defendants. For new personnel, delivery shall occur prior to the new personnel assuming their responsibilities.
- C. Individual Defendant as Employee or Non-Control Person: For any business which an Individual Defendant is not a controlling person of the business but otherwise engages in conduct that is related to the subject matter of this Order, the Individual Defendant must deliver a copy of this Order to all principals and managers of such business before engaging in such conduct.
- D. Defendants ERG Ventures, LLC, Elliott S. Cameron, Robert A. Davidson, II, and Garry E. Hill must secure a signed and dated statement acknowledging receipt of

1 the Order, within thirty (30) days of delivery, from all persons receiving a copy of  
2 the Order pursuant to this Paragraph.

3 **ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANTS**

4 **XI.**

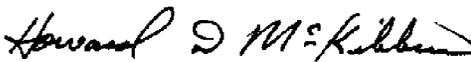
5 **IT IS FURTHER ORDERED** that each of the Defendants, within five (5) business days  
6 of receipt of this Order as entered by the Court, must submit to the Commission a truthful sworn  
7 statement acknowledging receipt of this Order.

8 **RETENTION OF JURISDICTION**

9 **XII.**

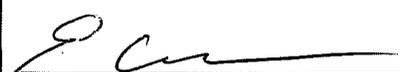
10 **IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this matter for  
11 purposes of construction, modification, and enforcement of this Order.

12  
13 **SO ORDERED**, this 28 day of September, 2007, at Reno,  
14 Nevada.

15 

16 The Honorable Howard D. McKibben  
17 United States District Judge  
District of Nevada, Reno

18 Stipulated and agreed to by:

19   
20 Elliott S. Cameron, Defendant

Dated: 9/7/07

21  
22  
23 Robert A. Davidson, II, Defendant

Dated: \_\_\_\_\_

24  
25 Garry E. Hill, Defendant

Dated: \_\_\_\_\_

1 the Order, within thirty (30) days of delivery, from all persons receiving a copy of  
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4 **XI.**

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8 **RETENTION OF JURISDICTION**

9 **XII.**

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11 purposes of construction, modification, and enforcement of this Order.

12  
13 **SO ORDERED**, this \_\_\_\_\_ day of \_\_\_\_\_, 2007, at Reno,  
14 Nevada.

15  
16 \_\_\_\_\_  
The Honorable Howard D. McKibben  
United States District Judge  
District of Nevada, Reno

17  
18 Stipulated and agreed to by:

19  
20 \_\_\_\_\_  
Elliott S. Cameron, Defendant

Dated: \_\_\_\_\_

21  
22   
23 \_\_\_\_\_  
Robert A. Davidson, II, Defendant

Dated: 9/10/07

24  
25 \_\_\_\_\_  
Garry E. Hill, Defendant

Dated: \_\_\_\_\_



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2 the Order pursuant to this Paragraph.

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12  
13 **SO ORDERED**, this \_\_\_\_\_ day of \_\_\_\_\_, 2007, at Reno,  
14 Nevada.

15  
16 The Honorable Howard D. McKibben  
17 United States District Judge  
District of Nevada, Reno

18 Stipulated and agreed to by:

19  
20 \_\_\_\_\_  
21 Elliott S. Cameron, Defendant

Dated: \_\_\_\_\_

22  
23 \_\_\_\_\_  
24 Robert A. Davidson, II, Defendant

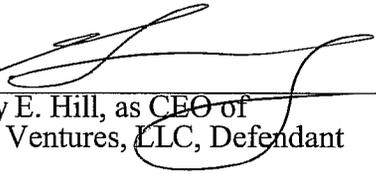
Dated: \_\_\_\_\_

25   
26 \_\_\_\_\_  
27 Garry E. Hill, Defendant

Dated: 9/10/07



Dated: 9/10/07

  
\_\_\_\_\_  
Garry E. Hill, as CEO of  
ERG Ventures, LLC, Defendant

Dated: \_\_\_\_\_

\_\_\_\_\_  
Dennis Kennedy  
Leah Martin  
Kimberly McGhee  
Bailey Merrill  
Attorneys for Defendants ERG Ventures, LLC,  
Robert A. Davidson, II, and Garry E. Hill  
8691 W. Sahara Ave., Suite 200  
Las Vegas, NV 89117-8820  
(702) 562-8820

Dated: \_\_\_\_\_

\_\_\_\_\_  
Ethan Arenson  
Colleen B. Robbins  
Attorneys for Plaintiff  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
(202) 326-2204; (202) 326-2548



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Garry E. Hill, as CEO of  
ERG Ventures, LLC, Defendant

Dated: \_\_\_\_\_

*Leah Martin*

Dated: 9/10/07

Dennis Kennedy  
Leah Martin  
Kimberly McGhee  
Bailey Merrill  
Attorneys for Defendants ERG Ventures, LLC,  
Robert A. Davidson, II, and Garry E. Hill  
8691 W. Sahara Ave., Suite 200  
Las Vegas, NV 89117-8820  
(702) 562-8820

*Ethan Arenson*

Dated: 9/27/07

Ethan Arenson  
Colleen B. Robbins  
Attorneys for Plaintiff  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580  
(202) 326-2204; (202) 326-2548

*KS*

## ATTACHMENT A

## Defendants' Bank Accounts Frozen Pursuant To The Asset Freeze

<b>Bank Name/Source</b>	<b>Account Description</b>	<b>Name of Account Holder</b>
Bancorp South	Checking	Robert Davidson, II
Bancorp South	Savings	Robert Davidson, II
Bancorp South	Windows Media Solutions Checking	Robert Davidson, II
Bancorp South	Certificate of Deposit	Robert Davidson, II
Fidelity Investments	Roth IRA	Robert Davidson, II
Regions Bank	Regions Free Checking	Robert Davidson, II
Regions Bank	Regions Free Checking	Robert Davidson, II
Chase	Commercial Checking	ERG Ventures, LLC
Pacific Premier Bank	Checking Account	Garry Hill
Wells Fargo Bank	Checking Account	Garry Hill
Wells Fargo Bank	Savings Account	Garry Hill
Pentagon Federal Credit Union	Regular Share Account	Garry Hill
SCE Federal Credit Union	Power Checking	Elliott Cameron
US Bank NA	Checking Account	Elliott Cameron