

UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

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FEDERAL DISTRICT OF CALIFORNIA
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FEDERAL TRADE COMMISSION,
Plaintiff,
v.
WORLD TRADERS ASSOCIATION,
INC., et al.,
Defendants.

CASE NO. CV 05-591 AHM (CTx)

[Proposed]
STIPULATED JUDGMENT
AND ORDER FOR PERMANENT
INJUNCTION AS TO
DEFENDANT JAIME
KLOTTHOR

SCANNED

FILED
CLERK, U.S. DISTRICT COURT

FEB 14 2007

CENTRAL DISTRICT OF CALIFORNIA
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This matter comes before the Court on a stipulation of Plaintiff Federal Trade Commission ("Commission" or "FTC") and Defendant Jaime Klotthor ("Defendant").

On January 25, 2005, the FTC filed a Complaint for a Permanent Injunction and Other Relief, including redress to consumers, pursuant to Sections 13(b) and 19(a) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b(a), and applied *ex parte* for a Temporary Restraining Order pursuant to Rule 65 of the Federal Rules of Civil Procedure. The Commission charged that Defendant Jaime Klotthor engaged with other named defendants in deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45(a), and the Commission's Rule entitled Disclosure Requirements and Prohibitions Concerning Franchise and Business Opportunity Ventures (the "Franchise Rule"), 16 C.F.R. Part 436, in the marketing and sale of an alleged business opportunity to become an affiliate in a network of brokers selling surplus goods. On January 25, 2005 – the same day the Complaint was filed – the Court issued a temporary restraining order with an asset freeze, appointment of a Receiver, and other ancillary equitable relief ("TRO"). On February 22, 2005, upon stipulation of the parties, the Court entered a preliminary injunction. In addition to continuing the relief in the TRO, the preliminary injunction contained a ban against Defendant's

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1 involvement with business ventures involving the sale or purchase of discounted
2 or surplus goods. On April 6, 2005, the FTC filed an Amended Complaint adding
3 additional defendants.

4 The Commission and Defendant Jaime Klotthor hereby stipulate to the entry
5 of, and request the Court to enter, this Stipulated Judgment and Order for
6 Permanent Injunction ("Final Order") to resolve all matters of dispute between
7 them in this action.

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

10 1. This Court has jurisdiction over the subject matter of this case and
11 jurisdiction over the Defendant.

12 2. Venue in this District is proper under 15 U.S.C. § 53(b) and 28
13 U.S.C. § 1391(b).

14 3. The activities of Defendant are in or affecting commerce, as defined
15 in Section 4 of the FTC Act, 15 U.S.C. § 44.

16 4. The Amended Complaint states a claim upon which relief may be
17 granted against Defendant under Sections 5(a), 13(b), and 19 of the FTC Act, 15
18 U.S.C. §§ 45(a), 53(b), and 57b, and the Franchise Rule, 16 C.F.R. Part 436.

19 5. Defendant has entered into this Final Order freely and without
20 coercion. Defendant further acknowledges that she has read the provisions of this
21 Final Order and is prepared to abide by them.

22 6. The Plaintiff and Defendant have agreed that the entry of this Final
23 Order resolves all matters of dispute between them arising from the Amended
24 Complaint in this action, up to the date of entry of this Final Order.

25 7. Defendant waives all rights to seek appellate review or otherwise
26 challenge or contest the validity of this Final Order. Defendant further waives and
27 releases any claim she may have against the Commission, its employees,
28 representatives, or agents.

1 8. Defendant agrees that this Final Order does not entitle Defendant to
2 seek or to obtain attorneys' fees as a prevailing party under the Equal Access to
3 Justice Act, 28 U.S.C. § 2412, as amended by Pub. L. 104-121, 110 Stat. 847, 863-
4 864 (1996), and Defendant further waives any rights to attorneys' fees that may
5 arise under said provision of law.

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

8 10. This Final Order is for settlement purposes only and does not
9 constitute an admission by Defendant that the law has been violated as alleged in
10 the Amended Complaint, or that the facts as alleged in the Amended Complaint,
11 other than jurisdictional facts, are true.

12 DEFINITIONS

13 1. "Assets" means any legal or equitable interest in, right to, or claim to,
14 any real and personal property, including, but not limited to, chattel, goods,
15 instruments, equipment, fixtures, general intangibles, inventory, checks, notes,
16 leaseholds, effects, contracts, mail or other deliveries, shares of stock, lists of
17 consumer names, accounts, credits, premises, receivables, funds, and cash,
18 wherever located, whether in the United States or abroad;

19 2. "Business venture" means any written or oral business arrangement,
20 however denominated, regardless of whether covered by the Franchise Rule,
21 which consists of the payment of any consideration in exchange for:

22 a. the right or means to offer, sell, or distribute goods or services
23 (regardless of whether identified by a trademark, service mark, trade name,
24 advertising, or other commercial symbol); and

25 b. more than nominal assistance to any person or entity in
26 connection with or incident to the establishment, maintenance, or operation of a
27 new business or the entry by an existing business into a new line or type of
28 business;

1 3. "Franchise Rule" means the FTC Trade Regulation Rule entitled
2 "Disclosure Requirements and Prohibitions Concerning Franchising and Business
3 Opportunity Ventures," 16 C.F.R. Part 436, as promulgated or as the Rule may
4 hereinafter be amended or superseded by any future trade regulation rule or rules,
5 in whole or in part;

6 4. "Defendant" means Jaime L. Klotthor, a/k/a Jaime Valentine;

7 5. "Document" is synonymous in meaning and equal in scope to the
8 usage of the term in Fed. R. Civ. P. 34(a), and includes writings, drawings, graphs,
9 charts, photographs, audio and video recordings, computer records, and other data
10 compilations from which information can be obtained and translated, if necessary,
11 through detection devices into reasonably usable form. A draft or non-identical
12 copy is a separate document within the meaning of the term.

13 6. "Receiver" shall mean Robb Evans and Associates, the Receiver
14 appointed by the Court in this matter over Receivership Defendants.

15 **ORDER** #

16 **I. BAN AGAINST INVOLVEMENT BY DEFENDANT IN THE OFFER OR
17 SALE OF A BUSINESS VENTURE**

18 **IT IS THEREFORE ORDERED** that Defendant is hereby permanently
19 restrained and enjoined from:

20 A. Advertising, marketing, promoting, offering for sale, or selling any
21 business venture to any person;

22 B. Receiving any remuneration or other consideration of any kind
23 whatsoever as a result of engaging or assisting in the advertising, marketing,
24 promoting, offering for sale, or selling of any business venture;

25 C. Holding any ownership interest, share, or stock in any business entity
26 which engages in or assists in the advertising, marketing, promoting, offering for
27 sale, or selling of any business venture; and
28

1 D. Serving as an employee, officer, director, trustee, general manager, or
2 consultant, or advisor in a position with duties or responsibilities that require
3 engaging or assisting in the advertising, marketing, promoting, offering for sale, or
4 selling of any business venture.

5 The prohibitions in Subdivisions A through D of this Section shall not be
6 construed to prevent Defendant from accepting employment with or receiving
7 remuneration from a company that advertises, markets, promotes, offers for sale,
8 or sells business ventures *provided* that the duties and responsibilities of
9 Defendant's position do not in any way involve accounts connected with these
10 business ventures, and *provided further* that the company is not engaged in the
11 advertising, marketing, promotion, or sale of discounted or surplus goods.

12 **II. PROHIBITION AGAINST VIOLATION OF SECTION 5**
13 **OF THE FEDERAL TRADE COMMISSION ACT**

14 **IT IS FURTHER ORDERED** that, in connection with the offering for sale
15 or sale of any good or service, Defendant, and her officers, agents, servants,
16 employees, attorneys, and those persons in active concert or participation with her
17 who receive actual notice of this Order by personal service or otherwise, are
18 hereby permanently restrained and enjoined from:

19 A. Misrepresenting, directly or by implication, orally or in writing, to
20 any potential purchaser of goods or services, any material fact, including, but not
21 limited to:

22 1. The total cost to purchase, receive, or use, and the quantity of,
23 any goods or services that are subject to the sales offer;

24 2. Any material restrictions, limitations, or conditions to purchase,
25 receive, or use the goods or services;

26 3. Any material aspect of the nature or terms of a refund,
27 cancellation, exchange or repurchase policy for the goods or services; or
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1 4. The income, profits, or sales volume likely to be achieved from
2 the goods or services.

3 B. Providing substantial assistance to any third party to make any
4 material misrepresentation, including, but not limited to, those misrepresentations
5 prohibited by Paragraph II (A), above.

6 **III. MONETARY JUDGMENT**

7 **IT IS FURTHER ORDERED** that:

8 A. Defendant is liable to the Commission for one million eight hundred
9 six thousand fifty-six dollars (\$1,806,056), and the FTC is awarded a monetary
10 judgment in this amount; *provided, however*, that payment of this judgment shall
11 be suspended and that the freeze of Defendant's assets shall be lifted permanently
12 upon the entry of this Final Order; and *provided, further*, that if judgment is
13 entered against any of the other defendants, the liability created by this judgment
14 shall be joint and several with the liability of the other defendants.

15 B. In accordance with 31 U.S.C. § 7701, Defendant is hereby required,
16 unless she has done so already, to furnish to the Commission her taxpayer
17 identification numbers (social security numbers and employer identification
18 numbers) which shall be used for purposes of collecting and reporting on any
19 delinquent amount arising out of Defendant's relationship with the government.

20 C. Defendant is further required, unless she has done so already, to
21 provide the Commission with clear, legible and full-size photocopies of all valid
22 driver's licenses she possesses, which will be used for reporting and compliance
23 purposes.

24 **IV. RIGHT TO REOPEN**

25 A. The Commission's agreement to this Final Order is expressly
26 premised upon the financial condition of Defendant as represented in the sworn
27 financial statement and supporting documents she provided to the Commission
28 dated January 31, 2005, her deposition of November 17, 2005, and her

1 supplemental financial statement provided to the Commission on 12/6/06, all of
2 which include material information upon which the Commission relied in
3 negotiating and consenting to this Final Order.

4 B. If, upon motion by the Commission, this Court finds that Defendant
5 made a material misrepresentation or omitted material information concerning her
6 financial condition, then the Court shall lift any suspension of the judgment and
7 direct the Clerk to enter judgment against Defendant and in favor of the
8 Commission for the full amount of \$1,806,056 immediately due and payable,
9 together with interest computed at the rate prescribed under 28 U.S.C. § 1961, as
10 amended, less the sum of any payments previously made pursuant to this Final
11 Order.

12 C. Any proceedings instituted under this Section IV are in addition to,
13 and not in lieu of; any other civil or criminal remedies as may be provided by law,
14 including any other proceedings that the FTC may initiate to enforce this Final
15 Order.

16 D. Any and all funds paid pursuant to this Order, including this Section
17 IV, shall be deposited into a fund administered by the Commission or its agent to
18 be used for equitable relief, including, but not limited to, consumer redress and
19 any attendant expenses for the administration of any redress fund. In the event
20 that redress to purchasers is wholly or partially impracticable, or any funds remain
21 after redress is completed, the Commission may apply any remaining funds to such
22 other equitable relief (including consumer information remedies) as it determines
23 to be reasonably related to Defendant's practices alleged in the Amended
24 Complaint. Any funds not used for such equitable relief shall be deposited in the
25 United States Treasury as disgorgement. Defendant shall have no right to contest
26 the manner of distribution chosen by the Commission. The Commission in its sole
27 discretion may use a designated agent to administer consumer redress.

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1 **V. ACKNOWLEDGMENT OF RECEIPT OF ORDER**

2 **IT IS FURTHER ORDERED** that, within ten (10) business days of receipt
3 of this Final Order as entered by the Court, Defendant must submit to the
4 Commission a truthful sworn statement acknowledging receipt of this Final Order.

5 **VI. DISTRIBUTION OF ORDER BY DEFENDANT**

6 **IT IS FURTHER ORDERED** that, for a period of three (3) years from the
7 date of entry of this Final Order, Defendant shall deliver copies of this Final Order
8 as directed below:

9 **A. Defendant as Control Person:** For any business that Defendant
10 controls, directly or indirectly, or in which she has a majority ownership interest,
11 Defendant must deliver a copy of this Final Order to all principals, officers,
12 directors and managers of that business. Defendant must also deliver copies of
13 this Final Order to all employees, agents and representatives of that business who
14 engage in the offer or sale of income-producing or investment-related goods or
15 services. For current personnel, delivery shall be within five (5) days of service of
16 this Final Order upon Defendant. For new personnel, delivery shall occur prior to
17 their assumption of their responsibilities;

18 **B. Defendant as Employee or Non-Control Person:** For any business
19 where Defendant is not a controlling person of the business, but for which she
20 otherwise engages in the offer or sale of income-producing or investment-related
21 goods or services, Defendant must deliver a copy of this Final Order to all
22 principals and managers of such business before engaging in such conduct; and

23 **C.** Defendant must secure a signed and dated statement acknowledging
24 receipt of the Final Order within thirty (30) days of delivery, from all persons
25 receiving a copy of the Final Order pursuant to this Paragraph VI.
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1 **VII. COMPLIANCE REPORTING BY DEFENDANT**

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

4 A. For a period of three (3) years from the date of entry of this Final
5 Order, Defendant shall notify the Commission in writing of the following:

6 1. Any changes in Defendant's residences, mailing addresses and
7 telephone numbers, within thirty (30) days of the date of such change;

8 2. Any changes in Defendant's employment status (including self-
9 employment), within thirty (30) days of such change. Such notice shall include
10 the name and address of each business that Defendant is affiliated with, employed
11 by, or performs services for; a statement of the nature of the business; and a
12 statement of Defendant's duties and responsibilities in connection with the
13 business;

14 3. Any changes in Defendant's name, and any aliases or fictitious
15 names adopted or used by Defendant; and

16 4. Any changes in the corporate structure of any business entity
17 that Defendant directly or indirectly controls or has a majority ownership interest
18 in, that may affect compliance obligations arising under this Final Order,
19 including, but not limited to, a dissolution, assignment, sale, merger, or other
20 action that would result in the emergence of a successor corporation; the creation
21 or dissolution of a subsidiary, parent, or affiliate that engages in any acts or
22 practices subject to this Final Order; the filing of a bankruptcy petition; or a
23 change in the corporate name or address, at least thirty (30) days prior to such
24 change, *provided, however*, that with respect to any proposed change in the
25 corporation about which Defendant learns less than thirty (30) days prior to the
26 date such action is to take place, Defendant shall notify the Commission as soon as
27 is practicable after obtaining such knowledge.

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1 B. One hundred and eighty (180) days after the date of entry of this Final
2 Order, and each year thereafter on the same date, through and including calendar
3 year ~~2012~~²⁰¹⁰, Defendant shall provide a written report to the FTC, sworn to under
4 penalty of perjury, setting forth in detail the manner and form in which she has
5 complied and is complying with this Final Order. This report shall include, but
6 not be limited to:

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

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

13 3. Any other changes required to be reported under Paragraph
14 VII.A of this Final Order; and

15 4. A copy of each acknowledgment of receipt of this Final Order
16 obtained by Defendant pursuant to Paragraph VI of this Final Order.

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

20 Associate Director
21 Division of Enforcement
22 Federal Trade Commission
23 601 New Jersey Ave., NW, Room 2119
Washington, DC 20001
Re: FTC v. World Traders Association, et al.,
Case No. CV 05-0591;

24 D. For the purposes of this Paragraph VII, "employment" includes the
25 performance of services as an employee, consultant, or independent contractor;
26 and "employers" include any individual or entity for whom Defendant performs
27 services as an employee, consultant, or independent contractor.
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1 E. For purposes of the compliance reporting required by this Paragraph
2 VII, the Commission is authorized to communicate directly with Defendant.

3 **VIII. RECORD-KEEPING PROVISIONS**

4 **IT IS FURTHER ORDERED** that, for a period of six (6) years from the
5 date of entry of this Final Order, in connection with any business that Defendant
6 directly or indirectly manages, controls or has a majority ownership interest in,
7 Defendant is hereby permanently restrained and enjoined from failing to create
8 and retain the following records:

9 A. Accounting records that reflect the cost of goods or services sold,
10 revenues generated, and the disbursement of such revenues;

11 B. Personnel records accurately reflecting: the name, address, and
12 telephone number of each person employed in any capacity by such business,
13 including as an independent contractor; that person's job title or position; the date
14 upon which the person commenced work; and the date and reason for the person's
15 termination, if applicable;

16 C. Customer files containing the names, addresses, phone numbers,
17 dollar amounts paid, quantity of items or services purchased, and description of
18 items or services purchased, to the extent such information is obtained in the
19 ordinary course of business;

20 D. Complaints and refund requests (whether received directly, indirectly
21 or through any third party) and any responses to those complaints or requests;

22 E. Copies of all sales scripts, training materials, advertisements, or other
23 marketing materials disseminated by Defendant to any person, including e-mail
24 and Internet web sites or web pages, relating to any good, service, company or
25 web site of the Defendant; and

26 F. All records and documents necessary to demonstrate fully
27 Defendant's compliance with each provision of this Final Order.
28

IX. COMPLIANCE MONITORING

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

A. Within ten (10) days of receipt of written notice from a representative of the Commission, Defendant shall submit additional written reports, sworn to 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's possession or direct or indirect control for inspection of the business operation;

B. In addition, the Commission is authorized to monitor compliance with this Final 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; and

2. Posing as consumers or suppliers to: Defendant, her employees, or any entity managed or controlled in whole or in part by Defendant, without the necessity of identification or prior notice.

C. Defendant 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 Final Order. The person interviewed may have counsel present.

Provided, however, that nothing in this Final 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

1 things, testimony, or information relevant to unfair or deceptive acts or practices in
2 or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

3 **X. PROHIBITIONS INVOLVING CONSUMER LISTS**

4 **IT IS FURTHER ORDERED** that Defendant, and her officers, agents,
5 servants, employees, attorneys, and those persons in active concert or participation
6 with her who receive actual notice of this Order by personal service or otherwise,
7 are hereby permanently restrained and enjoined from selling, renting, leasing,
8 transferring, or otherwise disclosing the name, address, telephone number, credit
9 card number, bank account number, e-mail address, or other identifying
10 information of any person who paid any money to Defendant, at any time prior to
11 entry of this Final Order, in connection with the advertising, promotion,
12 marketing, offering for sale, or sale of any good or service; *provided, however,*
13 that Defendant may disclose such identifying information to a law enforcement
14 agency, or as required by any law, regulation or court order.

15 **XI. COOPERATION WITH RECEIVER**

16 **IT IS FURTHER ORDERED** that, so long as the Receivership remains in
17 effect, Defendant shall cooperate fully with the Receiver in: (a) pursuing any and
18 all claims by the Receivership against third parties; (b) assisting the Receiver in
19 defending any and all actions or claims brought against the Receivership by third
20 parties; and (c) executing any documents necessary to transfer assets or ownership
21 interests to the Receiver pursuant to the terms of this Final Order.

22 **XII. FEES AND COSTS**

23 **IT IS FURTHER ORDERED** that each party to this Final Order hereby
24 agrees to bear its own costs and attorneys' fees incurred in connection with this
25 action.

1 **XIII. RETENTION OF JURISDICTION**

2 **IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of
3 this matter for purposes of construction, modification and enforcement of this
4 Final Order.

5 **XIV. ENTRY OF ORDER**

6 **IT IS FURTHER ORDERED** that there is no just reason for delay, and the
7 Clerk of Court is hereby directed to enter this Order immediately.

8 **XV. COMPLETE SETTLEMENT**

9 The parties hereby consent to entry of the this Final Order which shall
10 constitute a final judgment and order in this matter. The parties further stipulate
11 and agree that the entry of this Final Order shall constitute a full, complete, and
12 final settlement of this action.

13
14 **SO ORDERED**, this 14th day of February, 2017

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18 A. HOWARD MATZ
United States District Judge

SCANNED

