

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF CONNECTICUT**

**FEDERAL TRADE COMMISSION, Plaintiff,**

**v.**

**DAVID MARTINELLI, Jr., individually and doing business as DP Marketing and Data Process Marketing, and DEANA PLOURDE, individually and doing business as DP Marketing and Data Process Marketing, Defendants.**

**CIVIL NO. 3: 99 CV 1272 (CFD)**

**STIPULATED FINAL JUDGMENT AND ORDER FOR A PERMANENT  
INJUNCTION AS TO DEFENDANTS DAVID MARTINELLI, JR. AND DEANA  
PLOURDE, INDIVIDUALLY AND DOING BUSINESS AS DP MARKETING  
AND DATA PROCESS MARKETING**

Plaintiff, Federal Trade Commission ("Commission"), filed its Complaint ("Complaint") on July 7, 1999. That same day, the Court issued an Order to Show Cause why a preliminary injunction against defendants should not issue. On August 3, 1999, defendants David Martinelli, Jr. and Deana Plourde stipulated to entry of a preliminary injunction. The Stipulated Order for Preliminary Injunction was entered by the Court on September 23, 1999.

The complaint charged defendants David Martinelli, Jr., and Deana Plourde, both doing business as DP Marketing and Data Process Marketing, with violations of Section 5 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 45. Plaintiff, Federal Trade Commission, and defendants David Martinelli, Jr. and Deana Plourde, advised by counsel, have agreed to entry of this Stipulated Final Judgment and Order for Permanent Injunction ("Order") by the Court to resolve all matters in dispute in this action without trial.

**FINDINGS**

1. This Court has jurisdiction over the subject matter of this case and over the defendants.
2. This is an action by the Commission instituted under Sections 5 and 13(b) of the FTC Act, as amended, 15 U.S.C. §§ 45 and 53(b). The complaint seeks permanent injunctive relief and redress for injured consumers for alleged deceptive acts and practices by the defendants in the promotion of work-at-home opportunities

3. Venue in this district is proper under 28 U.S.C. § 1391(b) and (c), and 15 U.S.C. § 53(b).
4. The acts and practices of the defendants were or are in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
5. The Commission alleges that, from approximately August 1997, and continuing until the entry of this Order, defendants conducted a program to market purported work-at-home opportunities to consumers throughout the United States, and that defendants made material misrepresentations to consumers that were false and misleading.
6. The Commission has authority under Section 13(b) of the FTC Act to seek the relief it has requested, and the complaint states a claim upon which relief may be granted.
7. Defendants do not admit to conduct alleged in the Complaint, but enter into this Order solely for the purposes of resolving all matters in this dispute without the further cost of litigation.
8. Defendants, for the purposes of settling the Commission's complaint against them, agree to entry of this Final Judgment and Order for Permanent Injunction and Other Equitable Relief under Section 13(b) of the FTC Act.
9. This action and the relief awarded herein are in addition to, and not in lieu of, other remedies as may be provided by law, including both civil and criminal remedies, except that this action and the relief awarded herein constitute a final settlement between the Commission and defendants with respect to all matters contained in, or relating to, the Complaint filed on July 7, 1999, as of the date this Order is entered. Defendants are unaware of any other pending or planned actions against them, and do not otherwise admit to conduct that would give rise to any such actions.
10. Defendants enter into this Order freely and without coercion, and acknowledge that they understand the provisions of this Order and are prepared to abide by them.
11. Entry of this Order is in the public interest.

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED AS FOLLOWS:**

**DEFINITIONS**

For the purposes of this Order, the following definitions apply:

- A. "Defendants" collectively means David Martinelli, Jr., doing business as DP

Marketing or Data Process Marketing, and Deana Plourde, doing business as DP Marketing or Data Process Marketing.

B. "DP Marketing" means DP Marketing, a/k/a Data Process Marketing.

C. "Multi-level marketing program" means any program in which participants pay money to the program promoter in return for which the participants obtain the right to: (1) recruit additional participants, or have additional participants placed by the promoter or any other person into the program participant's "downline," "tree," "cooperative," "income center," or other similar program grouping; (2) sell goods or services; and (3) receive payment or other compensation, in whole or in part, based upon the sales of those in the participant's "downline," "tree," "cooperative," "income center," or other similar program grouping.

D. "Prohibited marketing scheme" means a pyramid sales scheme, Ponzi scheme, chain marketing scheme, or other marketing plan or program in which a person who participates makes a payment and receives the right, license, or opportunity to derive income as a participant primarily from: (i) the recruitment of additional recruits by the participant, program promoter, or others; (ii) non-retail sales made to or by such recruits or their recruits; or (iii) any other payments made by recruits.

E. "Retail sales" means sales of products, goods or services, or business ventures by defendants, their successors, assigns, agents, servants, employees, and those persons in active concert or participation with them to third-party end users. "Retail sales" does not include sales made by participants in a multi-level marketing program to other participants or recruits or to such a participant's own account. For purposes of this Order, "goods or services" does not include sales aids, advertising materials, solicitation scripts, identification numbers, time sheets, employment applications, or an opportunity to participate in a sales or marketing program.

F. "Work-at-home opportunities" means any program, scheme, plan, or product that enables its participant or purchaser to earn money by working from home.

## **ORDER**

### **Permanent Ban As to Prohibited Marketing Scheme**

#### **I.**

**IT IS THEREFORE ORDERED** that defendants are permanently restrained and enjoined from engaging, participating, or assisting in any manner or capacity whatsoever, directly, or in concert with others, or through any business entity or other device, in any prohibited marketing scheme.

### **Prohibitions Against Misrepresentations**

#### **II.**

**IT IS FURTHER ORDERED** that defendants, their successors, assigns, officers, agents, servants, employees and distributors, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, in connection with the advertising, promoting, offering for sale, sale, or distribution of any multi-level marketing program are hereby permanently restrained and enjoined from making or assisting in the making of, expressly or by implication, directly or indirectly, orally or in writing, any false or misleading statement or misrepresentation of material fact, including but not limited to the following:

- A. Misrepresenting the potential earnings or income derived from any multi-level marketing program;
- B. Misrepresenting the benefits any person participating in any such activity actually can receive from a multi-level marketing program;
- C. Misrepresenting the amount of sales a person actually made or potentially can make through any multi-level marketing program; or
- D. Misrepresenting that defendants have received any type of approval or endorsement from the Commission or any other government entity for any multi-level marketing program.

#### **III.**

**IT IS FURTHER ORDERED** that defendants, their successors, assigns, officers, agents, servants, employees and distributors, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, in connection with the advertising, promoting, offering for sale, sale, or distribution of any multi-level marketing program are hereby restrained and enjoined from failing to disclose, clearly and conspicuously, to any participant or prospective participant in any multi-level marketing program to whom any specific earnings, profits, or sales volume claims have been made: (1) the number of persons who earned, profited

or sold at least the amount represented; and (2) the percentage of the total participants or purchasers who earned, profited, or sold at least the amount represented. All such disclosures shall be made prior to the receipt of any payment and in a manner that is both clear and conspicuous.

#### IV.

**IT IS FURTHER ORDERED** that defendants, their successors, assigns, officers, agents, servants, employees and distributors, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, in connection with the advertising, promoting, offering for sale, sale, or distribution of any multi-level marketing program are hereby restrained and enjoined from providing to others the means and instrumentalities with which to make, expressly or by implication, orally or in writing, any false or misleading representation or omission of material fact, including but not limited to the following:

- A. Misrepresenting the potential earnings or income derived from any multi-level marketing program;
- B. Misrepresenting the benefits any person participating in any such activity actually can receive from any multi-level marketing program;
- C. Misrepresenting the amount of sales a person actually made or potentially can make through any multi-level marketing program; or
- D. Misrepresenting that defendants have received any type of approval or endorsement from the Commission or any other government entity for any multi-level marketing program.

#### V.

**IT IS FURTHER ORDERED** that defendants, their successors, assigns, officers, agents, servants, employees and distributors, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, in connection with the advertising, promoting, offering for sale, sale, marketing, or distribution of any product, service, or business venture are permanently enjoined and restrained from making or assisting in making, expressly or by implication, directly or indirectly, orally or in writing, any false or misleading statement or misrepresentation of material fact, including, but not limited to:

- A. Misrepresenting the availability of jobs or employment opportunities, employment of consumers to take orders from other consumers, opportunities for advancement, or salary or other compensation; or
- B. Misrepresenting the cost or utility of any goods, products, or services.

### **Monitoring Compliance of Sales Personnel**

#### **VI.**

**IT IS FURTHER ORDERED** that defendants, their successors, assigns, officers, agents, servants, employees and distributors, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, in connection with the advertising, promoting, offering for sale, sale, or distribution of any product, service, or business venture are permanently enjoined and restrained from:

- A. Failing to take reasonable steps to monitor and ensure that all defendants' agents, representatives, employees, or independent contractors comply with Paragraphs I, II, III, IV and V of this Order. Reasonable steps shall include, at a minimum, random interviews with consumers to ensure that no misrepresentations were made; ascertaining the number and nature of any consumer complaints; and establishing a procedure for responding to consumer complaints; provided, that this Paragraph does not authorize or require the defendants to take any steps that violate any federal, state, or local laws. Defendants shall, for a period of five (5) years, submit to the Commission, on an annual basis, no later than fifteen (15) days after the anniversary of the date of entry of this Order, a summary report indicating the efforts of defendants to comply with the requirements of this Paragraph. These annual reports shall be submitted to the Commission's Associate Director for Marketing Practices at the address listed in Paragraph XIII; and
- B. Failing to investigate and resolve promptly any consumer complaint received by defendants, their successors, assigns, officers, agents, servants, employees and distributors, and those persons in active concert or participation with them who receive actual notice of this Order regarding any multi-level marketing program, or any aspect thereof, and to notify the consumer of the resolution of the complaint and the reason therefor.

### **Record Keeping Provisions**

#### **VII.**

**IT IS FURTHER ORDERED** that defendants, and their successors and assigns, for a period of five (5) years from the date of entry of this Order, when acting in an individual capacity, or in connection with any business entity in which either defendant has an ownership interest or is a director or officer (or comparable position with a non-corporate entity), are hereby restrained and enjoined from failing to create, and from failing to retain for a period of five (5) years following the date of such creation, unless otherwise specified, and from failing to maintain and make available to representatives of the Commission, upon reasonable notice:

- A. Books, records, and accounts that, in reasonable detail, accurately and fairly reflect the cost of goods, products, or services sold; revenue generated from such sales; and disbursements, transactions, and use of monies;
- B. Records accurately reflecting: the name, address, and phone number of each employee or independent contractor of defendants'; that person's job title or position; the date upon which that person commenced work; and the date and reason for his or her termination, if applicable. Defendants shall retain such records for any terminated person for a period of two (2) years following the date of termination;
- C. Records containing the names, addresses, and phone numbers of all consumers to whom defendants have sold, invoiced, or shipped any products or services, whether on their behalf or that of any third party;
- D. Records that, for every consumer complaint or refund request, whether received directly or indirectly or through any third party, reflect:
  - (1) the consumer's name, address, telephone number and the dollar amount paid by the consumer;
  - (2) the written complaint, if any, and the date of the complaint or refund request;
  - (3) the basis of the complaint and the nature and the result of any investigation conducted as to the validity of any complaint;

(4) each response by either defendants, their agents, servants, employees and distributors, and those persons in active concert or participation and the date of the response;

(5) any final resolution and the date of the resolution; and

(6) in the event of a denial by either defendants, their agents, servants, employees or distributors, and those persons in active concert or participation with them, of a refund request, the reason for such denial, or if cured, the basis for determining that such complaint has been cured;

E. Copies of all sales scripts, training materials, advertisements, or other marketing materials utilized; provided, that copies of all sales scripts, training materials, advertisements, or other marketing materials utilized shall be retained by defendants for five (5) years after the last date of dissemination or use of any such materials.

F. Records relating to all ventures undertaken by either defendant, their agents, servants, employees and distributors, and those persons in active concert or participation with them that involve any type of marketing program including, but not limited to, sales seminars, telemarketing, websites, commercial electronic mail, infomercials or other television or radio advertising, or direct mail. Such records shall include: copies of all contracts or agreements between defendants, their agents, servants, employees and distributors, and those persons in active concert or participation with them and:

i) any sales company;

ii) mailhouse;

iii) printer;



iv) Internet service provider;

v) information provider;

vi) telephone company;

vii) television or radio station; or

viii) other persons through whom defendants, their agents, servants, employees and distributors, and those persons in active concert or participation with them, advertise or promote products or services; and

G. Copies of all advertisements, Web pages, commercial electronic mail, or promotional materials utilized in ventures referenced in Paragraph VII.F., above.

### **Monetary Relief**

### **VIII.**

**IT IS FURTHER ORDERED** that:

A. Judgment in the amount of Seventy Two Thousand Three Hundred and Twelve Dollars (\$72,312) is hereby entered jointly and severally against the defendants. Prior to, or concurrently with, their execution of this Order, defendants shall turn over the full amount of the monetary judgment to their attorney, Shipman & Goodwin, LLP, who shall hold the entire sum in a client's trust account. Defendants' attorney shall promptly notify counsel for Plaintiff of receipt of said judgment amount, and the identity of the client's trust account where the judgment amount is maintained. Defendants' attorney shall, within five (5) days of the entry of this Order, and without further demand, transfer the amount of \$72,312 to the Commission by certified check or other guaranteed funds payable to and delivered

to the Commission, or by wire transfer in accord with directions provided by the Commission;

B. All funds paid pursuant to this Paragraph shall be deposited into a fund administered by the Commission to be used for equitable relief, including but not limited to consumer redress and any attendant expenses for the administration of any redress fund. If the Commission determines, in its sole discretion, that redress to purchasers is wholly or partially impracticable, any funds not so used shall be paid to the United States Treasury as disgorgement or shall be used to educate consumers affected by the practices described in the Commission's complaint in this action. Defendants shall have no right to contest the manner of distribution chosen by the Commission. The Commission, in its sole discretion, may use a designated agent to administer consumer redress; and

C. Defendants acknowledge and agree that this judgment for equitable monetary relief, as with all other relief provided by this Order, is solely remedial in nature as restitution and is not a fine, penalty, punitive assessment, or forfeiture.

## IX.

**IT IS FURTHER ORDERED** that in the event any defendant receives a refund or reimbursement for overpayment of taxes from the Internal Revenue Service for tax years 1997, 1998, or 1999, such defendant shall, in addition to the judgment amount in paragraph VIII, pay the Commission a sum of money equal to the full amount of all such refunds or reimbursements. Further, should the total federal income tax liabilities of defendants for tax years 1997, 1998, and 1999 be less than \$52,688, defendants shall, in addition to the judgment amount in paragraph VIII, pay the Commission the difference between \$52,688 and the actual total federal income tax liabilities of any defendant. Defendants shall deliver copies of their federal income tax returns for the years 1998 and 1999, to the Commission at the time of the signing of this agreement. Defendants shall deliver copies of their federal income tax returns for the year 1997 at the time of the signing of this agreement; if copies of the 1997 federal income tax returns are not available at signing, defendants shall instead provide, at that time, a copy of the request made to the Internal Revenue Service by defendants to obtain the returns. In the event that the 1997 federal income tax returns are not provided at the time of signing, they shall be provided within five (5) business days of the date such tax returns are received by defendants from the Internal Revenue Service. Defendants shall deliver copies of any and all amendments to their federal income tax returns for the years 1997, 1998, and 1999 to the Commission within seven (7) days after such amendment(s) are sent to the Internal Revenue Service.

Defendants shall make payment(s) pursuant to this Paragraph, by certified check or other guaranteed funds payable to and delivered to the Commission, or by wire transfer in accord with directions provided by the Commission within ten (10) days of receipt from the Internal Revenue Service of any refund or reimbursement, or determination that the total federal income tax liabilities of defendants for tax years 1997, 1998, and 1999 is less than \$52,688.

### **Right to Reopen**

#### **X.**

**IT IS FURTHER ORDERED** that defendants shall, within five (5) days of the entry of this Order, provide to the Commission new financial disclosure forms, in the form shown in Appendix A, which truthfully, accurately, and completely reflect their financial condition as of the date they sign this Order.

Further, if any defendant:

- A. fails to provide truthful, accurate, and complete disclosure forms within five (5) days of the entry of this Order; or
- B. makes a material misrepresentation or omission concerning their financial condition, materially misrepresents the value of any asset, or makes any other material misrepresentation or omission, as determined by this Court, upon motion by the Commission; or
- C. lists on the financial disclosure forms to be submitted to the Commission pursuant to this paragraph assets materially greater than \$72,312,

the Court shall enter a modified judgment holding the defendants jointly and severally liable to the Commission for consumer redress in the amount of \$430,140. The Court, by stipulation of the parties, finds this sum represents the full restitution amount due to consumers by defendants.

### **Access to Business Premises**

#### **XI.**

**IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of entry of this Order, and solely for purposes of determining or securing compliance with this Order, defendants and any business entity that they now or shall come to own, operate, or control, their successors, assigns, agents, servants, employees, and those persons in

active concert or participation with defendants who receive actual notice of this Order by personal service or otherwise, shall permit representatives of the Commission, within ten (10) calendar days of receipt of written notice from the Commission:

A. Except as provided in subparagraph XI.C. herein, access during normal office hours to any office or business facility in which documents related to compliance with the terms of this Order are stored or held, to inspect and copy such documents; and to remove documents relevant to any matter contained in this Order for a period not to exceed forty-eight (48) hours so the documents may be inspected, inventoried, and copied;

B. To interview officers, directors, and employees, including all personnel involved in responding to consumer complaints or inquiries, and all sales personnel, whether designated as employees, consultants, independent contractors or otherwise, of any business where subsection (A) of this Paragraph applies, concerning matters relating to compliance with the terms of this Order, without restraint or interference from defendants, and at a location reasonably convenient to defendants and the person to be interviewed. The person interviewed may have counsel present.

C. Provided, that where any business entity or documents are located at the principal place of residence of one or both defendants, defendants shall produce documents to the Commission in the form in which they are kept in the ordinary course of business at the United States District Court for the district in which the residence is located, within ten (10) calendar days of receipt of written notice from the Commission; and

D. Provided that, upon application of the Commission, and for good cause shown, the Court may enter an ex parte order granting immediate access to defendants' business premises for the purposes of inspecting and copying all documents relevant to any matter contained in this Order.

### **Commission's Authority to Monitor Compliance**

## **XII.**

**IT IS FURTHER ORDERED** that the Commission is authorized to monitor defendants' compliance with this Order by all lawful means, including, but not limited to the following means:

- A. Without further leave of court, to obtain discovery provided by Rules 26-37 of the Federal Rules of Civil Procedure, including the use of compulsory process pursuant to Federal Rule of Civil Procedure 45, for the purpose of monitoring and investigating defendants' compliance with this Order;
- B. To use representatives posing as consumers and suppliers of defendants, their employees, or any entity defendants own, operate, or control, without the necessity of prior identification or notice;
- C. 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 and 57b-1, to investigate whether defendants have violated any provision of this Order or Section 5 of the FTC Act, 15 U.S.C. § 45.

### **Compliance Reporting by Defendants**

#### **XIII.**

**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, defendants shall notify the Commission in writing of:
- (1) any change in their respective residential addresses, mailing addresses, and telephone numbers, within ten (10) days of such change;
  - (2) any changes in defendants' employment status (including self-employment), within ten (10) days of such change. Such notice shall include the name and address of each business that either defendant is affiliated with or employed by, a statement of the nature of that business, and a statement of defendants' duties and responsibilities in connection with the business or employment; and
  - (3) any proposed change in the structure of any business entity owned or controlled by the defendants, such as creation, incorporation, dissolution, assignment, sale, merger, creation, dissolution of subsidiaries, proposed

filing of a bankruptcy petition, or change in the corporate name or address, or any other change that may affect compliance obligations arising out of this Order, thirty (30) days prior to the effective date of any proposed change; *provided*, however, that with respect to any proposed change in the entity about which defendant learns less than thirty (30) days prior to the date such action is to take place, defendant shall notify the Commission as soon as is practicable after learning of such proposed change;

B. One hundred eighty (180) days after the entry of this Order, defendants shall provide a written report to the Commission, sworn to under penalty of perjury, setting forth, in detail, the manner and form in which the defendants have complied with and are complying with this Order. This report shall include, but not be limited to:

(1) Defendants' then current residence addresses and telephone numbers;

(2) Defendants' then current employers, business addresses, and telephone numbers; a description of the business activities of each such employer; and defendants' titles and responsibilities for each employer;

(3) A copy of each acknowledgment of receipt of this Order obtained by defendants pursuant to Paragraph XV of this Order;

(4) A statement describing the manner in which defendant has complied and is complying with all provisions of this Order;

C. Upon reasonable written request by a representative of the Commission, defendants shall submit additional written reports and produce documents on fifteen (15) days notice with respect to any conduct subject to this Order;

D. For the purposes of this Order, defendants shall, unless otherwise directed by the Commission's authorized representatives, mail all written notifications,

information, and reports required by this Order to:

Associate Director for Marketing Practices  
Federal Trade Commission  
600 Pennsylvania Avenue, NW  
Washington, DC 20580

Re: FTC v. Martinelli;

E. For the purposes of this Paragraph, "employment" includes the performance of services as an employee, consultant, or independent contractor; and "employers" include any individual or entity for whom defendants perform services as an employee, consultant, or independent contractor; and

F. The Commission shall not, unless necessary to determine or enforce compliance with this Order, notify the defendants' employers of the defendants' obligations under this Order.

#### **XIV.**

**IT IS FURTHER ORDERED** that defendants and their successors and assigns, for a period of five (5) years from the date of entry of this Order, for the purposes of determining or securing compliance with this Order, when acting in an individual capacity, or in connection with any business entity in which either defendant has an ownership interest or is a director, officer (or comparable position with a non-corporate entity), shall, within sixty (60) days of a written request from the Commission:

A. Except as explicitly stated in Paragraph XIV.C., file with the Commission a statement containing the names of the media in or on which defendants, their agents, representatives, servants, employees, salespersons, independent contractors, or those of any corporations, trusts, or persons or other entities managed or controlled in whole or in part by defendants, have placed advertisements; the months during which those advertisements were published or broadcast; the caller-paid and/or toll-free telephone numbers utilized in furtherance of the sale of products and services; the uniform resource locators (URLs) of all websites utilized in furtherance of the sale of products and services; and the local carriers and/or telephone service common carriers utilized in furtherance of any marketing activities;

B. Produce any requested marketing materials used in the advertising, promoting, offering for sale, sale, or distribution of any product or service sold or offered for sale by defendants, their successors or assigns, agents, representatives, or affiliates;

C. Provided that, where advertisements are placed by an "advertisement broker" or "advertisement clearinghouse," and the ultimate placement of the advertisements is unknown to the defendants, it shall be sufficient that the defendants file with the Commission the name[s], of the broker[s] or clearinghouse[s]; the text or content of the advertisement; a brief description of the terms of the advertising arrangement; and a copy of the advertising contract, if any.

### **Distribution of Order by Defendants**

#### **XV.**

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Order, defendants shall:

A. Provide a copy of this Order to, and obtain a signed and dated acknowledgment of receipt of same from, each and every officer or director, each individual serving in a management capacity, all personnel involved in responding to consumer complaints or inquiries, and all sales personnel, whether designated as employees, consultants, independent contractors, or otherwise where:

(1) either defendant has an ownership interest or is a director or officer (or comparable position with a non-corporate entity); and

(2) the business is engaged in selling work-at-home opportunities, any other business activities at issue in this case, or assisting others engaged in these activities.

B. Maintain for a period of five (5) years after creation, and upon reasonable notice, make available to representatives from the Commission, the original signed and dated acknowledgments of the receipt of copies of this Order as required by Subsection (A) of this Paragraph.

### **Consumer Lists**



**XVI.**

**IT IS FURTHER ORDERED** that defendants, their successors, assigns, officers, agents, servants, employees, and distributors, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are permanently restrained and enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, credit card number, bank account number, email address, or other identifying information of any person who paid money to defendants, at any time prior to the entry of this Order, in connection with the selling of work-at-home opportunities. Provided, however, that defendants may disclose such identifying information to (1) a law enforcement agency, (2) pursuant to a written request by the person to whom the identifying information relates, or (3) as required by law, regulation, or court order.

**Acknowledgment of Receipt of Order by Defendants****XVII.**

IT IS FURTHER ORDERED that, within five (5) business days after receipt by defendants of this Order as entered by the Court, defendants shall submit to the Commission, at the address listed in Paragraph XIII.D., a truthful, sworn statement, in the form shown on Appendix B, that shall acknowledge receipt of this Final Order.

**Retention of Jurisdiction****XVIII.**

IT IS FURTHER ORDERED, that this Court shall retain jurisdiction of this matter for all purposes.

**Entry of Judgment****XIX.**

There being no just cause for delay, this Stipulated Final Judgment and Order for a Permanent Injunction as to defendants is hereby entered this \_\_\_ day of \_\_\_\_\_, 2000, and the previous stipulated preliminary injunction regarding defendants is lifted.

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The Honorable Christopher F. Droney  
United States District Judge

**STIPULATION**

The parties hereby stipulate and agree to entry of the foregoing Order, which shall constitute a final judgment in this action as to defendants. The foregoing Order constitutes resolution of all matters in dispute between the defendants, David Martinelli, Jr. and Deana Plourde, by the Commission up to the time of the entry of this Order. Defendant Martinelli, Jr. and defendant Plourde hereby waive any claim they may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, amended by P.L. 104-21, 110 Stat. 847, 863-64 (1996), concerning the prosecution of this action to the date of entry of this Order. Each party to this Order hereby agrees to bear its own costs and attorney's fees incurred in connection with this action.

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DAVID MARTINELLI, JR., Defendant

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Date

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DEANA PLOURDE, Defendant

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Date

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By: THOMAS K. JONES  
JAMES W. BERGENN  
ROSS H. GARBER  
Of Shipman & Goodwin, LLP  
Counsel for Defendants  
David Martinelli, Jr. and  
Deana Plourde

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Date

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By: STEPHEN GURWITZ  
CATHERINE HARRINGTON-MCBRIDE  
Counsel for Plaintiff, Federal Trade Commission

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Date