

1 including credit card accounts, or protect, indemnify, or
2 reimburse the holder of a credit or debit account against
3 unauthorized use or charges.

4 **I. BAN ON SELLING OR MARKETING CREDIT CARD PROTECTION**

5 **IT IS THEREFORE ORDERED** that defendant Wiggs, and her
6 successors, assigns, agents, employees, officers, and
7 servants, and those persons in active concert or participation
8 with her who receive actual notice of this order by personal
9 service or otherwise, are permanently restrained and enjoined
10 from engaging in, receiving any remuneration of any kind
11 whatsoever from, holding any ownership interest, share, or
12 stock in, or serving as an officer, director, or trustee of
13 any business entity engaged, in whole or in part, in credit
14 card protection.

15 **II. BOND TO ENGAGE IN TELEMARKETING**

16 **IT IF FURTHER ORDERED** that defendant Wiggs, in connection
17 with any business where (1) she is the majority owner of the
18 business or directly or indirectly controls the business, and
19 where (2) the business is engaged in telemarketing or
20 assisting others engaged in telemarketing, is permanently
21 restrained and enjoined from failing to obtain or post a
22 performance bond in the principal sum of TWO HUNDRED THOUSAND
23 DOLLARS for each corporation, subsidiary, division,
24 partnership, sole proprietorship, or other device, prior to
25 the start of any telemarketing activity by any such entity:

26 A. This bond shall be conditioned upon compliance with
27 Section 5 of the FTC Act, 15 U.S.C. § 45, the provisions of
28 this Order, the TSR, or any other statute enforced by the

1 Commission. The bond shall be deemed continuous and remain in
2 full force and effect as long as the defendant continues to
3 engage in the business of advertising, promoting, offering for
4 sale, sale, or distribution of any product or service while
5 utilizing telemarketing as a means of achieving the sale, and
6 for at least three years after defendant has ceased to engage
7 in such business. The bond shall cite this Order as the
8 subject matter of the bond, and shall provide surety
9 thereunder against financial loss resulting from any violation
10 of Section 5 of the FTC Act, 15 U.S.C. § 45, the provisions of
11 this Order, the TSR, or any other statute enforced by the
12 Commission;

13 B. The performance bond requirement pursuant to this
14 Section shall be an insurance agreement providing surety for
15 financial loss issued by a surety company that is admitted to
16 do business in each of the states in which the defendant is
17 doing business and that holds a Federal Certificate of
18 Authority As Acceptable Surety on Federal Bond and Reinsuring.
19 Defendant shall provide a copy of such performance bond to the
20 Commission prior to the commencement of any business for which
21 the bond is required; provided however, that until such bond
22 is obtained from an appropriate surety, defendant may deposit
23 the bond amount with her attorney, Robert Mothershead, Esq.,
24 who shall hold the money in trust and said funds will
25 constitute said bond under the provisions stated herein. Each
26 such performance bond shall be in favor of both (i) the
27 Federal Trade Commission for the benefit of any consumer
28 injured as a result of any violation of Section 5 of the FTC

1 Act, 15 U.S.C. § 45, the provisions of this Order, the TSR, or
2 any other statute enforced by the Commission made while
3 engaged in the business of selling products or services
4 through telemarketing and (ii) any consumer so injured;

5 C. The bond requirement pursuant to this Section is in
6 addition to, and not in lieu of, any other bond required by
7 federal, state, or local law;

8 D. Defendant Wiggs shall provide a copy of the bond
9 required by this Section to the Assistant Regional Director of

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1 corporation, subsidiary, division, partnership, or sole
2 proprietorship, in which defendant holds an ownership
3 interest, shares, or stock, or in which they serve as an
4 officer; director, or trustee:

5 1. Misrepresented any fact directly or by
6 implication, in violation of Section 5 of the FTC Act, 15
7 U.S.C. § 45, or the TSR, 26 C.F.R. Part 310;

8 2. Violated the terms of this Order, the TSR, or
9 any statute enforced by the Commission; or

10 3. Failed to render any required performance that
11 results in financial loss to any consumer, in connection with
12 the advertising, promoting, offering for sale, sale, or
13 distribution of any product or service while utilizing
14 telemarketing as a means of achieving the sale; and

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

19 III. PROHIBITED BUSINESS PRACTICES

20 **IT IS FURTHER ORDERED** that defendant Wiggs, in connection
21 with the sale of credit card protection, or any other credit
22 or debit account product or service, is hereby restrained and
23 enjoined from:

24 A. Misrepresenting an affiliation with a consumer's
25 credit card issuer or any other third party;

26 B. Misrepresenting that a consumer has been pre-
27 approved for or is likely to obtain an extension of credit;

28 C. Consummating a sale for credit card protection or any

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1 address, telephone number, or credit card or bank account
2 number of any consumer who provided such information to or did
3 business with the defendant, her successors, assigns, agents,
4 employees, officers, servants, and persons who acted in
5 concert or participation with her; provided, however, that
6 defendant and the aforementioned entities may provide such
7 information if required to do so by Court Order.

8 **V. RECORDING OF SALES CALLS**

9 **IT IS FURTHER ORDERED** that, in the event that defendant,
10 or her successors, assigns, agents, employees, officers, and
11 servants, and those persons in active concert or participation
12 with her who receive actual notice of this order by personal
13 service or otherwise, record any conversation with a consumer
14 to verify or confirm that a consumer is agreeing to purchase
15 any service or product, they are permanently restrained and
16 enjoined from accepting or processing such purchases unless
17 the recording meets the following criteria:

18 A. After obtaining permission from the consumer to
19 record the conversation, the recording shall reflect the
20 entirety of the conversation;

21 B. The recording must include clear, complete, and
22 understandable disclosures of all material terms of the
23 purchase, and the consumer's express agreement to such terms.
24 The material terms disclosed in the recorded conversation
25 shall be consistent with any information previously disclosed
26 to the consumer. Material terms include, but are not limited
27 to:

1 F. Any redress administrator shall destroy all records
2 relating to this matter six years after the transfer of any
3 remaining redress funds to the FTC Treasury account or the
4 closing of the account from which such funds were disbursed,
5 whichever is earlier, provided that no records shall be
6 destroyed unless and until a representative of the Commission
7 has received and approved the administrator's final accounting
8 report. Records shall be destroyed in accordance with
9 disposal methods and procedures to be specified by the
10 Commission. The Commission may, in its sole discretion,
11 require that such records, in whole or in part, be
12 transferred, in lieu of destruction, to the Commission.

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14 **VII. MONITORING COMPLIANCE OF SALES PERSONNEL**

15 **IT IS FURTHER ORDERED**

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1 1. Listening to oral representations made by
2 persons engaged in sales or other customer service functions;

3 2. Establishing a procedure for receiving and
4 responding to consumer complaints;

5 3. Ascertaining the number and nature of consumer
6 complaints regarding transactions in which each employee or
7 independent contractor is involved;

8 provided that this Section does not authorize or require the
9 defendant to take any steps that violate any federal, state,
10 or local laws;

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

14 C. Failing to take corrective action with respect to any
15 sales person whom defendant Wiggs determines is not complying
16 with the conditions stated in this Order. Such corrective
17 action may include training, disciplining, and/or terminating
18 such sales person.

19 **VIII. RECORD KEEPING PROVISIONS**

20 **IT IS FURTHER ORDERED** that, for a period of five years
21 from the date of entry of this Order, defendant Wiggs, in
22 connection with any business where (1) she is the majority
23 owner of the business or directly or indirectly controls the
24 business and where (2) the business is engaged selling or
25 marketing any product or service, is hereby restrained and
26 enjoined from failing to create, and from failing to retain
27 for a period of three years following the date of such
28 creation, unless otherwise specified:

1 A. Books, records and accounts that, in reasonable
2 detail, accurately and fairly reflect the cost of goods or
3 services sold, revenues generated, and the disbursement of
4 such revenues;

5 B. Records accurately reflecting: the name, address,
6 and telephone number of each person employed in any capacity
7 by such business, including as an independent contractor; that
8 person's job or position; the date upon which the person
9 commenced work; and the date and reason for the person's
10 termination, if applicable. The businesses subject to this
11 Section shall retain such records for any terminated employee
12 for a period of two years following the date of termination;

13 C. Records containing the names, addresses, phone
14 numbers, dollar amounts paid, quantity of items or services
15 purchased or provided, and description of items or services
16 purchased or provided for all consumers to whom such business
17 has sold or provided any goods or services;

18 D. Records that reflect, for every consumer complaint
19 or refund request, whether received directly or indirectly or
20 through any third party:

21 1. The consumer's name, address, telephone number
22 and the dollar amount paid by the consumer;

23 2. The written complaint or refund request, if any,
24 and the date of the complaint or refund request;

25 3. The basis of the complaint, including the name
26 of any salesperson complained against, and the nature and
27 result of any investigation conducted concerning any
28 complaint;

1 4. Each response and the date of the response;

2 5. Any final resolution and the date of the
3 resolution; and

4 6. In the event of a denial of a refund request,
5 the reason for the denial; and

6 E. Copies of all sales scripts, training materials,
7 advertisements, or other marketing materials utilized;
8 provided that copies of all sales scripts, training materials,
9 advertisements, or other marketing materials utilized shall be
10 retained for three years after the last date of dissemination
11 of any such materials.

12 **IX. COMPLIANCE REPORTING BY DEFENDANT**

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

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17 A. For a period of five years from the date of entry of
18 this Order, defendant Wiggs shall notify the Commission of the
19 following:

20 1. Any changes in her residence, mailing addresses,
21 and telephone numbers, within ten days of the date of such
22 change;

23 2. Any changes in her employment status (including
24 self-employment) within ten days of such change. Such notice
25 shall include the name and address of each business that she
26 is affiliated with or employed by, a statement of the nature
27 of the business, and a statement of her duties and
28 responsibilities in connection with the business or

1 employment; and

2 3. Any proposed change in the corporate structure
3 of any corporate defendant, or any proposed change in the
4 structure of any business entity owned or controlled by
5 defendant Wiggs, such as creation, incorporation, dissolution,
6 assignment, sale, merger, creation, dissolution of
7 subsidiaries, proposed filing of a bankruptcy petition, or
8 change in the corporate name or address, or any other change

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1 4. A statement describing the manner in which
2 defendant Wiggs has complied and is complying with the (a) the
3 injunctive provisions of this Order (Sections I-V), and (b)
4 the consumer redress provisions of this Order (Section VI);

5 C. Upon written request by a representative of the
6 Commission, defendant Wiggs shall submit additional written
7 reports (under oath, if requested) and produce documents on
8 fifteen days' notice with respect to any conduct subject to
9 this Order;

10 D. For the purposes of this Order, defendant Wiggs
11 shall, unless otherwise directed by the Commission's
12 authorized representatives, mail all written notifications to
13 the Commission to: Assistant Regional Director, Federal Trade
14 Commission, 10877
15 Wilshire Blvd., Suite 700, Los Angeles, California 90024, or
16 such other address as the Commission shall designate in
17 writing;

18 E. For the purposes of this Section, "employment"
19 includes the performance of services as an employee,
20 consultant, or independent contractor; and "employers" include
21 any individual or entity for whom defendant Wiggs performs
22 services as an employee, consultant, or independent
23 contractor; and

24 F. For purposes of the compliance reporting required by
25 this Section, the Commission is authorized to communicate
26 directly with defendant Wiggs.

27 **X. AUTHORITY TO MONITOR COMPLIANCE**

28 **IT IS FURTHER ORDERED** that the Commission is authorized

1 to monitor defendant Wiggs' compliance with this Order by all
2 lawful means, including but not limited to the following:

3 A. The Commission is authorized, without further leave
4 of the Court, to obtain discovery from any person in the
5 manner provided by Chapter V of the Federal Rules of Civil
6 Procedure, Fed. R. Civ. P. 26 - 37, including the use of
7 compulsory process pursuant to Fed. R. Civ. P. 45, for the
8 purpose of monitoring and investigating defendant Wiggs'
9 compliance with any provision of this Order;

10 B. The Commission is authorized to use representatives
11 posing as consumers or suppliers to defendant, her employees,
12 or any other entity managed or controlled in whole or in part
13 by her, without the necessity of identification or prior
14 notice; and

15 C. Nothing in this Order shall limit the Commission's
16 lawful use of compulsory process, pursuant to Sections 9 and
17 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to investigate
18 whether
19 she has violated any provision of this Order, the FTC Act, or
20 the TSR.

21 22 23 **XI. ACCESS TO BUSINESS PREMISES**

24 **IT IS FURTHER ORDERED** that, for a period of five years
25 from the date of entry of this Order, for the purpose of
26 further determining compliance with this Order, defendant
27 Wiggs shall permit representatives of the Commission, within
28 three business days of receipt of written notice from the

1 Commission:

2 A. Access during normal business hours to any office,
3 or facility storing documents, of any business where (1)
4 defendant Wiggs is the majority owner of the business or
5 directly or indirectly controls the business, and where (2)
6 the business is engaged selling or marketing any product or
7 service. In providing such access, defendant Wiggs shall
8 permit representatives of the Commission to inspect and copy
9 all documents relevant to any matter contained in this Order;
10 and shall permit Commission representatives to remove
11 documents relevant to any matter contained in this Order for a
12 period not to exceed five business days so that the documents
13 may be inspected, inventoried, and copied; and

14 B. To interview the officers, directors, and employees,
15 including all personnel involved in responding to consumer
16 complaints or inquiries, and all sales personnel, whether
17 designated as employees, consultants, independent contractors
18 or otherwise, of any business to which Subsection (A) applies,
19 concerning matters relating to compliance with the terms of
20 this Order. The person interviewed may have counsel present;
21 and

22 C. Upon application of the Commission and for good cause
23 shown, the Court may enter an *ex parte* order granting
24 immediate access to defendant Wiggs' business premises for the
25 purposes of inspecting and copying all documents relevant to
26 any matter contained in this Order.

27 **XII. DISTRIBUTION OF ORDER BY DEFENDANT**

28 **IT IS FURTHER ORDERED** that, for a period of five years

1 from the date of entry of this Order, defendant Wiggs shall:

2 A. Provide a copy of this Order to, and obtain a signed
3 and dated acknowledgment of receipt of same from, each officer
4 or director, each individual serving in a management capacity,
5 all personnel involved in responding to consumer complaints or
6 inquiries, and all sales personnel, whether designated as
7 employees, consultants, independent contractors or otherwise,
8 immediately upon employing or retaining any such persons, for
9 any business where (1) either defendant is the majority owner
10 of the business or directly or indirectly controls the
11 business, and where (2) the business is engaged in selling or
12 marketing any product or service; and

13 B. Maintain for a period of three years after creation,
14 and upon reasonable notice, make available to representatives
15 of the Commission, the original signed and dated
16 acknowledgments of the receipt of copies of this Order, as
17 required in
18 Subsection A.

19 **XIII. ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANT**

20 **IT IS FURTHER ORDERED** that within five business days
21 after receipt by defendant Wiggs of this Order as entered by
22 the Court, she shall submit to the Commission a truthful sworn
23 and notarized statement, in the form shown on Attachment B,
24 that shall acknowledge receipt of this Order as entered.

25 **XIV. RETENTION OF JURISDICTION**

26 **IT IS FURTHER ORDERED** that this Court will retain
27 jurisdiction of this matter for the purpose of enabling any of
28 the parties to this Order to apply to the Court at any time

1 for such further orders or directives as may be necessary or
2 appropriate for the interpretation or modification of this
3 Order, for the enforcement of compliance therewith or the
4 punishment of violations thereof.

5 Defendant Wiggs and the Commission, through its counsel,
6 hereby consent to the terms and conditions of this Stipulation
7 as set forth above and consent to the entry of a Court order
8 with the same terms. Defendant Wiggs waives any rights that
9 may arise

10 under the Equal Access to Justice Act, 28 U.S.C. § 2412,
11 amended by Pub. L. 104-121, 110 Stat. 847, 863-64 (1996).

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13 **IT IS SO ORDERED.**

14 Dated this ___ day of May, 2001.

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16 _____
17 Hon. Mary H. Murguia
United States District Judge

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26 **ATTACHMENT A**

27 **WARNING**
28 **DON'T SIGN UP OR PAY MONEY UNTIL YOU READ THIS NOTICE**

1 Please initial where applicable:

2 1. I understand that the company that is offering to sell me
3 this product or service, (*company name, to be completed by
4 seller), is not related in any way to Visa, MasterCard, or
any bank that issues credit cards.

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1 TELEPHONE NUMBER :

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3 **ATTACHMENT B**

4 UNITED STATES DISTRICT COURT

5 DISTRICT OF ARIZONA

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1 Order for Permanent Injunction Against Defendant Courtney Ann
2 Wiggs, which was signed by the Honorable [name of U.S.
3 District Judge] and entered by the Court on [date of entry of
4 Order]. A true and correct copy of the Order I received is
5 appended to this Affidavit.

6 I declare under penalty of perjury under the laws of the
7 United States that the foregoing is true and correct. Executed
8 on [date], at [place]

9
10 _____
11 [Name of Defendant & signature]

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15 State of _____, City of _____

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17 Subscribed and sworn to before me
18 this _____ day of _____, 2000.

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22 Notary Public

23 My Commission Expires:
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CERTIFICATE OF SERVICE

My name is Raymond E. McKown. I am an attorney employed by the Federal Trade Commission, 10877 Wilshire Boulevard, Suite 700, Los Angeles, California 90024. On May 14, 2001, I placed the documents captioned: "Stipulation for Entry of placed the documents feor/6 -m ain0/13.25I

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/ / /
Richard Hinz, Esq.
Office of the Arizona Attorney General
1275 West Washington
Phoenix, AZ 85007

I declare under penalty of perjury that the foregoing is true and correct. Executed this 14th day of May 2001 at Los Angeles, California.

Raymond E. McKown