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8 United States of America

9  
10 IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  
11

12 \_\_\_\_\_ )  
UNITED STATES OF AMERICA, )  
13 )  
Plaintiff, )  
14 )  
v. ) Civil Action No. \_\_\_\_\_  
15 )  
DYNAMIC WHEELS & TIRES, INC., )  
16 a corporation, and )  
GARY JERJERIAN, ) CONSENT DECREE AND  
17 individually, ) ORDER FOR INJUNCTIVE AND  
18 ) OTHER RELIEF  
Defendants. )  
19 \_\_\_\_\_ )

20  
21 WHEREAS plaintiff, the United States of America, has commenced  
22 this action by filing the Complaint herein; defendants have waived  
23 service of the Summons and Complaint; the parties have been  
24 represented by the attorneys whose names appear hereafter; and the  
25 parties have agreed to settlement of this action upon the following  
26 terms and conditions, without adjudication of any issue of fact or  
27 law, without admitting liability for any of the matters alleged in  
28 the Complaint;



1           5. Plaintiff's agreement to this consent decree is expressly  
2 premised upon the truthfulness, accuracy, and completeness of the  
3 financial condition of defendants, as represented in the financial  
4 statements referenced above, which contain material information upon  
5 which the plaintiff relied in negotiating and agreeing to suspend the  
6 civil penalty stated in the consent decree. If, upon motion by the  
7 plaintiff, this Court finds that either defendant made any material  
8 misrepresentation in or omission from either of the financial  
9 statements, the entire amount of the \$200,000.00 suspended judgment  
10 entered against defendants will be immediately due and payable. In  
11 connection with any such motion, the only issue shall be whether the  
12 financial information either defendant provided in either of the  
13 financial statements was fraudulent, misleading, inaccurate or  
14 incomplete in any material respect. For purposes of this paragraph,  
15 and any subsequent proceedings to enforce payment, including but not  
16 limited to a nondischargeability complaint filed in any bankruptcy  
17 proceeding, defendants waive any right to contest any of the  
18 allegations of plaintiff's Complaint.

19           6. In the event of any default in payment, which default  
20 continues for ten (10) days beyond the due date of payment, the  
21 entire unpaid penalty, together with interest, as computed pursuant  
22 to 28 U.S.C. § 1961, from the date of default to the date of payment,  
23 will immediately become due and payable.



1 solicitation, within thirty (30) days after receipt of a  
2 properly completed order, as required by 16 C.F.R.

3 § 435.1(a)(1);

4 f. Failing to offer to the buyer, clearly and conspicuously  
5 and without prior demand, an option either to consent to a  
6 delay in shipping or to cancel the order and receive a  
7 prompt refund, as required by 16 C.F.R. § 435.1(b)(1); and

8 g. Failing to deem an order canceled and to make a prompt  
9 refund, as "refund" and "prompt refund" are defined in  
10 Sections 435.2(e)-(f) of the Rule, to buyers who are  
11 entitled to such refunds under 16 C.F.R. § 435.1(c).

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1 Enforcement, Bureau of Consumer Protection, Federal Trade Commission,  
2 Washington, D.C. 20580, setting forth the fact and manner of their  
3 compliance, including the name and title of each person to whom a  
4 copy of the Consent Decree and Business Guide has been provided.

5 11. For a period of five (5) years from the date of entry of  
6 this Consent Decree, the defendants must maintain and make available  
7 to the Federal Trade Commission, within seven (7) days of the date of  
8 receipt of a written request, business records demonstrating  
9 compliance with the terms and provisions of this Consent Decree.

10 12. For a period of seven (7) years from the date of entry of  
11 this Consent Decree, the corporate defendant, its successors and  
12 assigns, must notify the Associate Director, Division of Enforcement,  
13 Bureau of Consumer Protection, Federal Trade Commission, Washington,  
14 D.C. 20580, at least thirty (30) days prior to any merger,  
15 incorporation, dissolution, assignment, sale resulting in the  
16 emergence of a successor corporation, creation or dissolution of a  
17 subsidiary or parent, or any other changes in corporate status which  
18 may affect defendant's obligations under this Consent Decree.  
19 *Provided, however,* with respect to any proposed change in the  
20 corporation about which defendant learns less than thirty (30) days  
21 prior to the date such action is to take place, defendant must notify  
22 the Commission's Associate Director for Enforcement as soon as  
23 practicable after obtaining such knowledge.

24 13. For a period of five (5) years from the date of entry of  
25 this Consent Decree, the individual defendant must notify the  
26 Commission's Associate Director for Enforcement within thirty (30)

1 days of any change in his or her affiliation with, or change in his  
2 or her active participation in the management or direction of, any  
3 business which is engaged in the sale or distribution of merchandise  
4 covered by the Rule. *Provided, however,* with respect to any change  
5 in his affiliation or participation, as aforesaid, about which  
6 defendant learns less than thirty (30) days prior to the date such  
7 action is to take place, defendant must notify the Commission's  
8 Associate Director for Enforcement as soon as practicable after  
9 obtaining such knowledge.

10 14. One hundred twenty (120) days after entry of this Consent  
11 Decree, defendants must provide a written report to the Federal Trade  
12 Commission, sworn to under penalty of perjury, setting forth in  
13 detail the manner and form in which defendants have complied and are  
14 complying with this Consent Decree. This report must include and is  
15 not limited to:

- 16 a. a specimen copy of each delay option notice used for  
17 purposes of complying with any provision of the Rule, and  
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- 1 c. a statement setting forth in detail defendants' procedures  
2 for providing prompt refunds to buyers pursuant to the  
3 Rule;
- 4 d. a statement setting forth in detail defendants' use (if  
5 any) of cancellation or restocking fees, a list of names  
6 and addresses of consumers assessed any cancellation or  
7 restocking fees by the company, and the reasons for  
8 assessing the fees;
- 9 e. a statement setting forth in detail the basis for claiming  
10 that defendants will ship merchandise:
- 11 i. within the time stated in any advertisement or  
12 representation to the buyer before or at the time of  
13 sale;
- 14 ii. within thirty (30) days, where no time is stated  
15 clearly and conspicuously in any advertisement or is  
16 made to the buyer before or at the time of sale; and
- 17 f. a statement setting forth in detail the manner and form in  
18 which defendants have satisfied all redress obligations  
19 required by this u yyfc00iredo the buyer before or at the time  
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Office of Consumer Litigation

By: \_\_\_\_\_  
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FOR THE FEDERAL TRADE COMMISSION:

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ELAINE D. KOLISH  
Associate Director  
Division of Enforcement

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1 FOR THE DEFENDANTS:  
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GARY JERJERIAN  
Individually  
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6 DYNAMIC WHEELS & TIRES, INC.  
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8 By: \_\_\_\_\_  
GARY JERJERIAN  
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