FEDERAL TRADE COMMISSION,

Plaintiff, I
v.

MITCHELL D. GOLD, et al.,

NO. SACV 98-968-DOC (RZX)
STIPULATED ORDER FOR PERMANENT INJUNCTION AS
TO JONATHAN P. COHEN

Defendants. 1

Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), has filed a complaint for a permanent injunction and other relief, pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. 53(b), charging defendants Mitchell David Gold, Patricia Ann Cooley Gold, Herbert Gold, Celia Gold, Jonathan Philip Cohen, Steven John Chinarian, U.S. Marketing, Inc., and North American Charitable Services, Inc., with violations of Section 5 of the FTC Act, 15 U.S.C. 5 45,
in connection with solicitations of charitable donations by telephone and by mail. The Commission and defendant Jonathan P. Cohen (hereinafter "de
Cohen"), by and through counsel, for the purpose of full and final s

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STIPULATED FINAL ORDER AS TO COHEN - Page I of 12 2-sq H:BCFiBAWnGOLDSETTLEME\Cohm Ord 2Wimwpd

-matters alleged in the complaint filed in this case, have consented to entry

- DEFINITIONS

1. For purposes of this Order the following definitions shall apply:
2. "Donation" or "contribution" means money or any item of value provided
in response to a solicitation made on behalf, or in the name, of any nonprofit organization, including any payment for advertising or any listing in any magazine, journal or other publication produced by, or on behalf of, or in the name of, any nonprofit organization.
3. "Donor" or "consumer" means any person or business solicited for a
donation or contribution.
4. "Nonprofit organization" means any person that is, or is represented to be,
a nonprofit entity or that has, or is represented to have, a charitable purpose, specifically including any entity that purports to benefit, either in whole or in part, purported law enforcement, firefighting, or veterans' organizations, personnel, or programs, or individuals who suffer from an illness or injury.
5. "Material fact" means a fact likely to affect a person's decision as to the
amount of, or whether to make, a donation, contribution, or purchase.
6. "Person" means a natural person, organization or other legal entity,
including a corporation, partnership, proprietorship, association, cooperative, government agency, or any other group or combination acting as an entity.
7. "Solicitor" means any person who solicits donations or contributions.
8. "Telemarketing" means any plan, program, or campaign that involves
attempts to induce consumers to purchase any item, good, service, partnership, interest, trust interest, other beneficial interest, or chance to win a prize, by means of telephone sales presentations, provided that the term "telemarketing" does not include: transactions that are not completed until after a face-to-face contact between the seller or solicitor and the consumers solicited; transactions initiated by a customer's telephone call, when the call is not the result of any solicitation by a seller or telemarketer; and transactions initiated by telephone calls made to any person with whom the caller has a prior or

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(206) 220-6350

4 program, or campaign, operating an enterprise conducting such a plan, program, or I

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5 campaign, or otherwise participating as an officer, director, employee or independent I1

-e-stablished business or personal relationship that was not created by means of

3 11 concert or participation with him who receive actual notice of this Order by personal I

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4 1 service, facsimile or otherwise, whether acting directly or through any corporation, 1

. ~ . -. 111. PROHIBITION ON MISREPRESENTATIONS

IT IS FURTHER ORDERED that defendant Cohen and those persons in active I

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subsidiary, division or other device, are hereby permanently restrained and enjoined fro

making, or assisting in making, material misrepresentations in connection with the sale I o

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13 Order is express1y:premised upon the truthfulness, accuracy, and completeness of .. I1 I'

consumer goods or services.

XV. RIGHT TO REOPEN

A. IT IS FURTHER ORDERED that, by agreeing to this Order, defendant

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reaffirms and attests to the truthfulness, accuracy, and completeness of the financial statement transmitted to the FTC on September 4,2002. Plaintiffs agreement to this

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defendant's representations regarding his financial condition in the Financial Disclosure Forms referenced above, which contain material information upon which plaintiff relied

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in negotiating and agreeing to the terms of this Order. If, upon motion by the Commission, this Court finds that defendant Cohen failed to disclose any material asset

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1 25 11 equitable relief, including but not limited to consumer redress and any attendant I

or source of income, or materially misrepresented the value of any asset or source of
income, or made any other material misrepresentation in or omission from the Financial Disclosure Form and related materials, the Court shall enter judgment against defendant
Cohen, in favor of the Commission, in the amount

5 remedies under this Paragraph. I I

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. such ~ .- other equitable relief, including consumer information remedies, as it determines to be reasonably related to defendant's practices alleged in the Complaint. Any funds not used for such equitable relief shall be deposited in the United States Treasury as disgorgement. Defendant shall have no right to challenge the Commission's choice of

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VII. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring and
investigating defendant Cohen's compliance with any provision of this Order:
A. Within ten (10) days of receipt of written notice from a representative of the] Commission, defendant Cohen shall submit additional written reports, sworn to under penalty of pe jury; produce documents; appear for deposition;

D. For purposes only of the compliance reporting required by this Paragraph, . the Commission is authorized to communicate directly with defendant Cohen.

VIII. MAINTENANCE OF RECORDS

IT IS FURTHER ORDERED that defendant, for a period of ten (10) years from
the date of entry of this Order, in connection with any business entity that defendant directly or indirectly owns or controls that is engaged in the advertising, marketing, sale or offering for sale of any consumer good or service, is hereby permanently restrained and enjoined from failing to create, and from failing to retain for a period of three (3) years following the date of such creation unless otherwise specified:
A. Accounting records that reflect the cost of goods or services sold,

revenues

IX. NOTICES

IT IS FURTHER ORDERED that for purposes of this Order, defendant shall, unless otherwise directed by the Commission's authorized representatives, mail all

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written notifications to the Commission to:

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Re onal Director
Federal % rade Commission
91 5 Second Avenue, Suite 2896 Seattle, Washington 98 174

X. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matte1 for the purpose of enabling either of the parties to this Order to apply to the Court at any

time for such further orders or directives as may be necessary or appropriate for the I
interpretation or modification of this Order, for the enforcement of compliance therewith

or for the punishment of violations thereof. .! . : I
XI. ENTRY OF THIS JUDGMENT

IT IS FURTHER ORDERED that, as there is no just reason for delay, the Clerk

of the Court is hereby directed to enter this Order.

SO ORDERED, this 2 P day of ,2003.

Honorable David 0. Carter
United States District Judge

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4 1 coercion, that he understands the provisions of the Order, and is prepared to abide by its 1

The parties hereby consent to the terms and conditions set forth above and

APPENDIX A
UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA SOUTHERN DIVISION

FEDERAL TRADE COMMISSION,
Plaintiff,

v.

MITCHELL D. GOLD, et al.,
Defendants.

AFFIDAVIT OF DEFENDANT

1, , being duly sworn, hereby state and affirm as follows:
1. Mynameis . My current residence address is
. I am a citizen of the United States
and am over the age of eighteen. I have personal knowledge of the facts set forth in this Affidavit.
2. I am a defendant in FTC v. Mitchell. D. Gold, et al. (United States District Court for the
Central District of California).
3. On [date], I received a copy of the Order for Permanent Injunction, which
was signed by the Honorable David 0. Carter and entered by the Court on [dat of entry of Order]. A true and correct copy of the Order I received is appended to this Affidavit.
I declare under penalty of pe jury under the laws of the United States that the foregoing is true ar

correct. Executed on [date], at [city and state]. I

[SignatureiFull name of defendant]
Subscribed and sworn to before me this d a y of ,2003.

Notary Public
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CERTIFICATE OF SERVICE

I hereby certify that I caused the foregoing document to be served on all
I defendants by providing a true and correct copy thereof on the date set forth below by first-class mail, deposited with the United States Postal Service at Seattle,
Washington to:
0 S. Daniel Harbottle, Rutan and Tucker, LLP (counsel for North
I American Charitable Services, U.S. Marketing, Mitchell Gold, Herbert Gold, and Celia Gold), 714-546-9035, 61 1 Anrvices, 0 Td 0<uitServices,