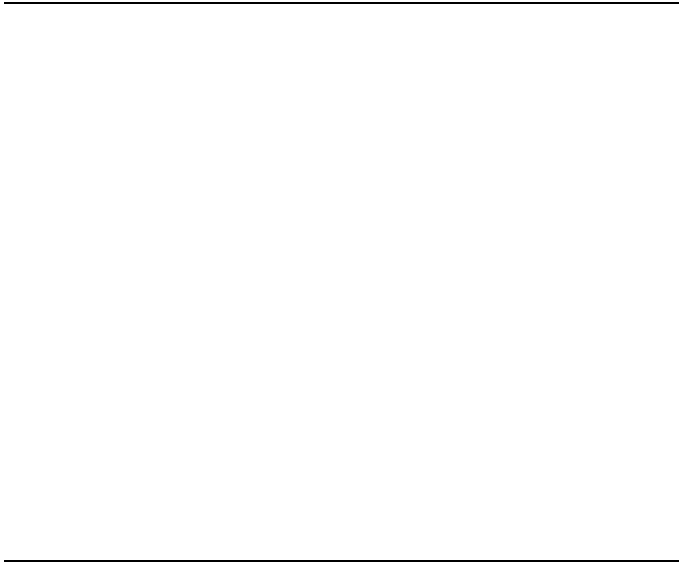


WILLIAM E. KOVACIC



Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), alleging violations of Sections 5 and 12 of the FTC Act, 15 U.S.C. §§ 45 and 52.

The Commission and defendants have agreed to the entry of this Stipulated Final Order for Permanent Injunction (“Order”) and have requested that the Court enter the same to resolve all matters of dispute between them in this action without trial or adjudication of any issue of law or fact herein.

NOW, THEREFORE, the Commission and defendants having requested this Court to enter this Order, **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** as follows:

### **FINDINGS**

1. This Court has jurisdiction of the subject matter of this action and of the defendants. Venue in the Eastern District of New York is proper.
2. The Complaint states a claim upon which relief can be granted, and the Commission has authority to seek the relief it has requested under Sections 5, 12 and 13(b) of the FTC Act, 15 U.S.C. §§ 45, 52, and 53(b).
3. 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.
4. Defendants waive all rights to seek judicial review of, or otherwise challenge or contest the validity of this Order. Defendants also waive any claim that they may have held under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action to the date of this Order.
5. The Commission and defendants stipulate and agree to entry of the Order against defendants freely and without trial or final adjudication of any issue of fact or law, to settle and resolve



conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.

2. “Covered product” shall mean Rhino’s “WaveScrambler” and any other device or product designed or intended to reduce exposure to, prevent absorption of, mitigate the effects of, or prevent penetration of electromagnetic energy or other fields from any cellular telephone or cordless telephone, microwave oven, computer monitor, television, or any other product, device, equipment, or appliance. Covered product shall not include devices whose primary purpose is to enable hands-free use of cellular or cordless phones.

3. “Clearly and prominently” shall mean as follows:

A. In an advertisement communicated through an electronic medium (such as television, video, radio, and interactive media such as the Internet and online services), the disclosure shall be presented simultaneously in both the audio and video portions of the advertisement. Provided,

B. In a print advertisement, promotional material, or instructional manual, the disclosure shall be in a type size and location sufficiently noticeable for an ordinary consumer to read and comprehend it, in print that contrasts with the background against which it appears. In multipage documents, the disclosure shall appear on the cover or first page.

C. On a product label, the disclosure shall be in a type size and location on the principal display panel sufficiently noticeable for an ordinary consumer to read and comprehend it, in print that contrasts with the background against which it appears.

4. Defendants shall mean Rhino, Nigel Harrison, and Sherry Molina.

## **CONDUCT PROHIBITIONS**

### **I.**

**IT IS HEREBY ORDERED** that defendants, and their agents, servants, employees, attorneys, corporations, subsidiaries, successors, assigns, and all other persons or entities in active concert or participation with any of the defendants who receive actual notice of this Order by personal service, facsimile, or otherwise, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of a covered product in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, about the ability of such product to reduce exposure to, prevent absorption of, mitigate the effects of, or prevent penetration of electromagnetic energy or other fields from any cellular telephone or cordless telephone, microwave oven, computer monitor, television, or any other product, device, equipment, or appliance, unless the representation is true and, at the time it is made, defendants possess and rely upon competent and reliable scientific evidence that substantiates the representation.

**II.**

**IT IS FURTHER ORDERED** that defendants, and their agents, servants, employees, attorneys, corporations, subsidiaries, successors, assigns, and all other persons or entities in active



Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to the defendants' practices alleged in the complaint. Any funds not used for such equitable relief shall be deposited to the Treasury as disgorgement. Defendants shall have no right to challenge the Commission's choice of remedies under this Paragraph. Defendants acknowledge and agree that all money paid pursuant to this Order is irrevocably paid to the Commission for purposes of settlement between plaintiff and defendants. The Commission shall have full and sole discretion to:

- (1) determine the criteria for participation by individual claimants in any consumer redress program implemented pursuant to this Order;
- (2) determine the manner and timing of any notices to be given to consumers regarding the existence and terms of such programs; and
- (3) delegate any and all tasks connected with such redress program to any individuals, partnerships, or corporations; and pay reasonable fees, salaries, and expenses incurred thereby from the payments made pursuant to this Order;

(C) Defendants shall provide to the Commission documents and information in their possession, custody, and control that are sufficient to identify WaveScrambler purchasers within ten (10) days of the entry of this Order. If documents and information sufficient to identify WaveScrambler purchasers are not in defendants' possession, custody, and control, defendants shall use reasonable efforts to obtain said documents and information and provide them to the Commission; and

(D) Defendants shall also furnish to the Commission, in accordance with



31 U.S.C. § 7701, their taxpayer identification numbers (social security number, social insurance number, or employer identification number), which shall be used for purposes of collecting and reporting on any delinquent amount arising out of each defendant's relationship with the government.

## **COMPLIANCE MONITORING**

### **VI.**

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

(A) Within ten (10) days of receipt of written notice from a representative of the Commission, any defendant receiving such notice 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 such defendant's possession or direct or indirect control to inspect the business operation;

(B) In addition, the Commission is authorized to monitor compliance with this 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;

(2) posing as consumers and suppliers to: defendants or employees of Rhino, Nigel Harrison, or Sherry Molina, or any other entity managed or controlled in whole or in part by defendants Rhino, Nigel Harrison, or Sherry Molina, without the necessity of identification or prior notice;

**Provided** that 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, 57b-1, to obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

(C) defendants Rhino, Nigel Harrison, and Sherry Molina 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 Order. The person interviewed may have counsel present.

## **COMPLIANCE REPORTING BY DEFENDANT**

### **VII.**

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

- (A) For a period of four (4) years from the date of entry of this Order,
- (1) defendants Nigel Harrison and Sherry Molina shall notify the Commission of the following:
- (a) Any changes in defendant's own residence, mailing addresses, and telephone numbers, within ten (10) days of the date of such change;
- (b) Any changes in defendant's own employment status (including self-employment) within ten (10) days of the date of such change. Such notice shall include the name and address of each business that defendant is affiliated with, employed by, or

performs services for; a statement of the nature of the business; and a statement of defendant's duties and responsibilities in connection with the business;

(c) Any changes in defendant's name or use of any aliases or fictitious names; and

(2) defendants Rhino, Nigel Harrison, and Sherry Molina shall notify the Commission of any changes in corporate structure that may affect compliance obligations arising under this Order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or

(C) For the purposes of this Order, defendant shall, unless otherwise directed by the Commission's authorized representatives, mail all written notifications to the Commission to:

Regional Director for Northeast Region  
Federal Trade Commission  
1 Bowling Green, Suite 318  
New York, NY 10004  
Re: FTC v. Rhino International, Inc.

possession, custody, or control that contradict, qualify, or call into question the representation(s) relating to a covered product, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental entities or consumer protection organizations;

(C) accounting records that reflect the cost of goods or services sold, revenues generated, and the disbursement of such revenues;

(D) personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by such business, including as an independent contractor; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;

(E) customer files containing the names, addresses, phone numbers, dollar amounts paid, quantity of items or services purchased, and description of items or services purchased, to the extent such information is obtained in the ordinary course of business;

(F) complaint and refund requests (whether received directly, indirectly, or through any third party) and any responses to those complaints or requests; and

(G) copies of all sales scripts, training materials, advertisements, or other marketing materials.

## **DISTRIBUTION OF ORDER BY DEFENDANT**

### **IX.**

**IT IS FURTHER ORDERED** that, for a period of four (4) years from the date of entry of this Order,

(A) Rhino shall deliver a copy of this Order to all principals, officers, directors, managers, employees, agents, and representatives having responsibilities with respect to the subject matter of this Order, and shall secure from each such person a signed and dated statement acknowledging receipt of the Order. Rhino shall deliver this Order to current personnel within thirty (30) days after the date of service of this Order, and to new personnel within thirty (30) days after the person assumes such position or responsibilities.

(B) Defendants Nigel Harrison and Sherry Molina shall deliver a copy of this Order to the principals, officers, directors, managers and employees under Nigel Harrison's and Sherry Molina's control, for Rhino and any business that (a) employs or contracts for personal services from Nigel Harrison or Sherry Molina

**RETENTION OF JURISDICTION**

**XI.**

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

**SO STIPULATED:**

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BARBARA ANTHONY  
REGIONAL DIRECTOR  
NORTHEAST REGION

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Federal Trade Commission  
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New York, NY 10004  
(212) 607-2829

Attorneys for Plaintiff  
FEDERAL TRADE COMMISSION

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NIGEL HARRISON

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SHERRY MOLINA

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RHINO INTERNATIONAL, INC.  
NIGEL HARRISON, PRESIDENT

**SO ORDERED**

DATED: \_\_\_\_\_

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UNITED STATES DISTRICT JUDGE