

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA

Case No. 5:03-CV-0140-3-CAR

FILED
U.S. DISTRICT COURT
MIDDLE GEORGIA

03 OCT 14 AM 9:4

[Handwritten Signature]

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

Civil Order ELP

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

side. The Defendants requested with respect to the Court's order that the Court

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

9. 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.

10. Plaintiff and Defendants have agreed that the entry of this Order resolves all matters of dispute between them arising from the Complaint in this action, up to the date of entry

contest the validity of this Order. Defendants further waive and release any claim they may have against the Commission, its employees, representatives, or agents.

any real or personal property of any Defendant, or held for the benefit of any Defendant,

including, but not limited to "goods," "instruments," "equipment," "fixtures," "personal

CONDUCT PROHIBITIONS

I.

PROHIBITION AGAINST FALSE OR MISLEADING STATEMENTS

IT IS THEREFORE ORDERED that in connection with the advertising promotion

offering for sale, or sale of any business opportunity or business development aid, Defendants and

any person or entity in active contact or participation with them who receive actual notice of the

III.

**INJUNCTION AGAINST PROVIDING OTHERS WITH
THE MEANS AND INSTRUMENTALITIES TO
VIOLATE SECTION 5 OF THE FTC ACT**

IT IS FURTHER ORDERED that in connection with the offering for sale or sale of any business opportunity or business development aid, Defendants 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 statement or representation of material fact including but not limited to the following:

A. Any false or misleading representation that consumers who purchase certain products are likely to earn substantial income from those products; and

B. Any false or misleading representation that all consumers who purchase certain products can earn a substantial income from those products.

of consumers to ensure that no misrepresentations were made; and ascertaining the number and nature of any consumer complaints concerning any marketing material used by Defendants or the

failure of any product sold by Defendants to meet a representation made in any of the

material used by Defendants. 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

B. Upon timely making the payment provided in this Paragraph, the remainder of the

underment shall be succeeded

All funds released pursuant to this Final Order shall be deposited into a fund

administered by the Commission or its agent to be used for equitable relief, including but not

limited to consumer redress and any attendant expenses for the administration of any redress fund.

In the event that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the Commission may pay any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to the

omitted material information concerning their respective financial condition, then the Court shall enter a modified judgment holding that any such defendant is liable to the Commission in the amount of \$634,222.45, which Defendants and the Commission stipulate, for the sole purpose of enforcement of this provision of the Order, is the amount of consumer injury caused

by Defendants. This amount less the sum of payments made by all Defendants to this action

shall become immediately due and payable by any such defendant, and interest computed at the rate prescribed under 28 U.S.C. § 1961, as amended, shall immediately begin to accrue on the unpaid balance.

D. Defendants agree that the facts set forth in the Complaint filed in this action

TRANSFER OF CUSTOMER LISTS

IT IS FURTHER ORDERED that the Defendants are hereby permanently restrained and

enjoined from selling, renting, leasing, transferring or otherwise disclosing the name, address, telephone number, credit card number, bank account number, e-mail address, or other identifying information of any person who paid any money to any Defendant for any product known as "Instant Internet Empires" at any time prior to entry of this Order, in connection with the advertising, promotion, offering for sale, or sale of any business opportunity or business

business days after receipt of this Order, and thereafter within three (3) business days of
employing any such person for any business that any Defendant directly or indirectly manages

controls, or has a majority ownership interest in, that is engaged in the sale or distribution of any
business opportunity or business development aid, or assisting others engaged in these activities;

B Maintain for a period of three (3) years after creation and use reasonable

make available to representatives of the Commission, the original signed and dated
acknowledgments of receipt of copies of the summary of this Order, as required in Subsection A
of this Order

3. Any proposed change in the structure of any business entity that any Defendant directly or indirectly manages, controls, or has a majority ownership interest in, such

any other change that may affect compliance obligations arising out of this Order, thirty (30) days prior to the effective date of any such change, or if the Defendants learn of any such change less than thirty (30) days prior to the effective date of any such change, as soon as is practicable, but in no event later than forty-eight (48) hours prior to the effective date of any such change;

~~By _____ One hundred eighty (180) days after the date of entry of this Order, Defendant~~

(20) days' notice with respect to any conduct that is subject to this Order;

D. For the purposes of this Order, Defendants shall, unless otherwise directed by a representative of the Commission, identify all written notifications to the FTC as provided in this

Eileen Harrington, Associate Director
Federal Trade Commission
600 Pennsylvania Ave. N.W - Rm. H-238
Washington, DC 20580

E. For the purposes of this Paragraph, "employment" includes the performance of

XII.

RECORD-KEEPING PROVISIONS

of this Order, in connection with any business that any Defendant directly or indirectly manages,

~~parties who have majority ownership interest in that is covered in the advertising promotion~~

XIII.

ACCESS TO BUSINESS PREMISES

IT IS FURTHER ORDERED that for a period of five (5) years from the date of entry of this Order, for the purposes of determining or securing compliance with its provisions,

receipt of written notice from the Commission:

1. Access during normal business hours to any office or facility storing documents of any business that any Defendant directly or indirectly manages, controls, or has a majority ownership interest in, that is engaged in the advertising, promotion, offering for sale, or sale of any business opportunity or business development aid, or assisting others engaged in such

Commission 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.

XIV.

AUTHORITY TO MONITOR COMPLIANCE

IT IS FURTHER ORDERED that the Commission is authorized to monitor

FEES AND COSTS

IT IS FURTHER ORDERED that each party to this Order hereby agrees to bear its

share of the costs incurred in connection with this action.

XVI.

RETENTION OF JURISDICTION AND ENTRY OF JUDGMENT

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for the purpose of enabling the parties to apply to the Court at any time for such further orders and

SO STIPULATED:

FOR THE PLAINTIFF:

Robert B. Schor

FOR THE DEFENDANTS:

William W. Maycock

APPENDIX A

UNITED STATES DISTRICT COURT

Case No. 5:03-CV-1040-3-CAR

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

K4 GLOBAL PUBLISHING, INC.,

dba

Instant Internet Empires,

K4 GLOBAL PUBLISHING, INC.

Affidavit.

2. I am a Defendant in the above-captioned case.

3. On _____, I received a copy of the Stipulated Judgment and Order for Permanent Injunction, which was signed by the Honorable _____ and entered by the

_____ 2003. A true and correct copy of the Order I received is appended to this

Affidavit.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Irwin F. Kern, IV

Executed on _____, 2003, at _____ [city and state].

State of _____

County of _____

Appendix B

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA

Case No. 5:03-CV-0140-3-CAR

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

K4 GLOBAL PUBLISHING, INC.,

dba

Instant Internet Empires

KERN FAMILY ENTERPRISES, LLC,

dba

Instant Internet Empires,

and

IRWIN F. KERN, IV,

aka

Frank Kern,

Defendants.

SUMMARY OF STIPULATED FINAL JUDGMENT AND ORDER

On _____, 2003, Judge C. Ashley Royal of the United States District Court for the Middle District of Georgia issued a **Stipulated Final Judgment and Order for Permanent Injunction and Other Equitable Relief** in the above-captioned case.

Paragraph X of the Order requires the Defendants to provide a copy of the following

individual serving in a management capacity, all employees and third-party contractors involved in responding to consumer complaints or inquiries, and all sales personnel, whether designated as

~~independent contractors or otherwise~~ for any business that any

F. "Chain Marketing Scheme" means any program, plan, product, or service in which the financial gains of participants or purchasers are primarily dependent on the successive recruitment of new participants or purchasers into the program, plan, product, or service.

III.

DEFENDANTS ARE RESTRICTED FROM PROVIDING OTHERS WITH

**THE MEANS AND INSTRUMENTALITIES TO
VIOLATE SECTION 5 OF THE FTC ACT**

IT IS FURTHER ORDERED that in connection with the offering for sale or sale of any business opportunity or business development aid, Defendants 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 statement or representation of material