

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	Case No. 03 C 2540
)	
v.)	Judge James B. Zagel
)	
BRIAN D. WESTBY, MARTIJN P.)	Magistrate Judge Arlander Key
BEVELANDER, and MAPS HOLDING B.V.)	
)	
Defendants.)	

STIPULATED FINAL JUDGMENT AND

ORDER FOR PERMANENT INJUNCTION

Plaintiff Federal Trade Commission ("Commission" or "FTC") filed its complaint in this action pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b). The Commission and Defendants, as hereinafter defined, hereby stipulate to the entry of and request the Court to enter this Stipulated Final Judgment and Order for Permanent Injunction ("Order") to resolve all matters of dispute between them in this action.

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED

5. Defendants have entered into this Order freely and without coercion. Defendants further acknowledge that they have read the provisions of the Order and are prepared to abide by them.

6. The Plaintiff and Defendants have entered into this Order freely and without coercion.

this Order resolves all matters of dispute between them arising from the Complaint in this action,

as to the date of entry of this Order.

7. Defendants waive all rights to seek judicial review or otherwise challenge or contest the validity of this Order. Defendants further waive and release any claim they may have against the Plaintiff.

reasonably usable form. A draft or non-identical copy is a separate document within the meaning of this term.

4. **“Asset” or “Assets”** means any legal or equitable interest in, right to, or claim to, any real and/or personal property, including without limitation, chattels, goods, instruments, equipment, fixtures, general intangibles, leaseholds, mail or other deliveries, inventory, checks, notes, accounts, credits, contracts, receivables, shares of stock, and all cash, wherever located.

5. **“Material”** means likely to affect a person’s choice of, or conduct regarding,

goods or services.

6. **“Person”** means a natural person, an organization or other legal entity, including a corporation, partnership, sole proprietorship, limited liability company, association, cooperative, or any other group or combination acting as an entity.

7. **“Spoofting”** means the practice of disguising a commercial e-mail to make the e-mail appear to come from an address from which it actually did not originate. Spoofting involves placing in the “From” or “Reply-to” lines, or in other portions of e-mail messages, an e-mail address other than the actual sender’s address, without the consent or authorization of the user of the e-mail address whose address is spoofted.

8. **“Unsolicited commercial e-mail”** means an electronic mail message that consists of or contains a communication advertising, promoting, soliciting, offering, or offering to sell

I. INJUNCTION AGAINST MISPRESENTATIONS

IT IS THEREFORE ORDERED that Defendants, and their officers, agents, directors, servants, employees, salespersons, independent contractors, corporations, subsidiaries, affiliates, successors, and assigns, and all other persons or entities in active contact with the Defendants

who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, or any of them, in connection with the marketing, advertising, promotion, offering for sale, sale, or provision of any good or service, are hereby permanently restrained and enjoined from:

III. MONETARY JUDGMENT

IT IS FURTHER ORDERED that:

A. Judgment in the amount of \$87,500 is hereby entered against Defendant Brian D. Westby and satisfied by payment to be made in accordance with Paragraphs C and D of this Section.

E. Nothing herein should be deemed or construed to prevent the Commission from initiating any appropriate proceeding or proceedings to enforce the provisions of this Order.

IV. COMMISSION'S USE OF MONETARY JUDGMENT

IT IS FURTHER ORDERED that all funds paid pursuant to Section III of this 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 apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the complaint. Any funds not used for such equitable relief shall be deposited to the United States Treasury as disgorgement. Defendants shall have no right to challenge the Commission's choice of remedies under this Section.

V. COMPLIANCE MONITORING

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

A. Within fifteen (15) days of receipt of written notice from a representative of the

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 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.

VI. COMPLIANCE REPORTING BY DEFENDANTS

IT IS FURTHER ORDERED THAT

[REDACTED]

corporation; the creation or dissolution of a subsidiary; except as provided in this Order, the

or practices subject to this Order; the filing of a bankruptcy petition; or a change in the corporate name or address, at least thirty (30) days prior to such change, *provided* that, with respect to any proposed change in the corporation about which any Defendant learns less than thirty (30) days prior to the date such action is to take place, Defendant shall notify the Commission as soon as is practicable after obtaining such knowledge;

B. One hundred eighty (180) days after the date of entry of this Order, Defendants shall each provide a written report to the Commission.

or participation with them who receive actual notice of this Order by personal service or otherwise

are hereby restrained and enjoined from failing to create and retain the following records:

A. Accounting records that reflect the cost of goods or services sold, revenues generated, and the disbursement of such revenues;

B. 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;

C. Customer files containing the names, addresses, telephone 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;

D. Complaint and refund requests (whether received directly, indirectly, or through any

third party), and any responses to those complaints or refund requests; and

contracts for personal services from Defendants Brian D. Westby or Martijn P. Bevelander and (b)

Martijn P. Bevelander shall secure from each such person a signed and dated statement

person who submitted such information to Defendants as a result of, derived from, or otherwise related to the activities alleged to be in violation of the FTC Act in Counts I and II of the Commission's complaint *provided, however* that Defendants may disclose such information to a

law enforcement agency, to Plaintiff, or as required by any law, regulation, or court order.

XII. FEES AND COSTS

IT IS FURTHER ORDERED that each party to this Order bears costs to bear its own

STIPULATED AND AGREED AS FOLLOWS:

FOR THE PLAINTIFF:

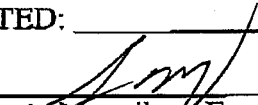
FOR DEFENDANTS:

DATED: MARCH 3, 2004

DATED: _____



Steven M. Womackoff Esq.



Sean A. Kavanagh Esq.

55 E. Monroe St., #1860
Chicago, IL 60603
(312) 960-5630
(312) 960-5600 *facsimile*

Klein, Zelman, Rothermel & Dichter LLP
485 Madison Avenue
New York, NY 10022
(212) 935-6020
(212) 762-8101