

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Order for Equitable Relief ("Final Judgment") by this Court in order to resolve all matters

~~arising out of the facts set forth in the Complaint.~~

Commission and Defendants have consented to entry of this Final Judgment without

~~trial or adjudication of any issue of law or fact herein.~~

any liability or wrongdoing for the offenses alleged in the Complaint.

## DEFINITIONS

1. "Credit-related goods or services" means any good or service that is

advertised, offered for sale, or sold to consumers as a method by which consumers may establish or obtain any credit or credit device including, but not limited to, credit

cards, loans, or financing; or as a method to receive, receive, or



**IT IS FURTHER ORDERED** that, in connection with telemarketing any goods or services to consumers, Defendants are hereby permanently restrained and enjoined from violating any provision of the Telemarketing Sales Rule, 16 C.F.R. Part 310, by, including but not limited to:

- A. misrepresenting, directly or by implication, any material aspect of the performance, efficacy, nature, or central characteristics of goods or services that are the subject of a sales offer, in violation of Section

310.36(b)(1)(ii) of the Telemarketing Sales Rule, 16 C.F.R. Part 310.

- B. requesting or receiving payment of any fee or consideration in advance of

**III. INJUNCTION AGAINST VIOLATIONS OF SUBTITLE A OF THE GLB ACT AND  
THE PRIVACY RULE**

**IT IS FURTHER ORDERED** that, in connection with the offering of any credit-related goods or services, Defendants are hereby permanently restrained and enjoined

personal bank account numbers) by making false, fictitious, or fraudulent statements or representations to consumers or financial institutions.

**V. MONETARY RELIEF**

**IT IS FURTHER ORDERED** that:

^ Judgment in the amount of \$75,000 is entered against Defendants as

to be suspended until further order of the Court pursuant to Section VI of this

judgment for equitable monetary relief shall be deemed a fine, penalty,

punitive assessment, or forfeiture.

- D. Defendants agree that the facts as alleged in the complaint filed in this action shall be taken as true for the purpose of any non-dischargeability action in a bankruptcy proceeding.

#### **VI. RIGHT TO REOPEN**

**IT IS FURTHER ORDERED** that, by agreeing to this Order, Defendants reaffirm and attest to the truthfulness, accuracy, and completeness of the financial statement that was prepared by Defendant Joe P. Sainz, III, on behalf of himself and Sainz

Enterprise, LLC and American Medical Center, Inc. (collectively, "Debtors")



be provided by law, including any other proceedings Plaintiff may initiate to enforce this Order.

**VII. ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANT**

Defendants of this Order as entered by the Court, Defendants shall submit to the Commission a truthful sworn statement, in the form shown as Appendix A, that shall acknowledge receipt of this Order.

**VIII. DISTRIBUTION OF ORDER BY DEFENDANTS**

~~this Order as required in Section VIII of this Order~~

### IX. COMPLIANCE REPORTING BY DEFENDANTS

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

- A. Defendants shall, for a period of five (5) years from the date of entry of this Order, notify the Commission of any changes in corporate structure

in detail the manner and form in which they have complied and are complying with this Order. This report shall include, but not be limited to:

1. any changes required to be reported pursuant to subparagraph (A) above;

consumers;

## X. PLAINTIFF'S AUTHORITY TO MONITOR COMPLIANCE

**IT IS FURTHER ORDERED** that the Commission is authorized to monitor Defendants' compliance with this Order by all lawful means including, but not limited to, the following:

- A. The Commission is authorized, without further leave of Court, to obtain discovery from any person in the manner provided by Chapter V of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 26-37, including the use of compulsory process pursuant to Fed. R. Civ. P. 45 for the purpose of

monitoring and investigating Defendants' compliance with any provision of

this Order; and

- B. The Commission is authorized to use representatives posing as consumers and suppliers to Defendants, Defendants' employees, or any other entity managed or controlled in whole or in part by Defendants, 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 and 57b-1, to investigate whether Defendants have violated any provision of this Order or Section 5 of the FTC Act, 15 U.S.C. § 45.

- C. Defendants shall permit representatives of the Commission to interview

any conduct subject to this Order. The person interviewed may have counsel present.

### XI. RECORD KEEPING PROVISIONS

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of

~~entry of this Order, Defendants and their successors and assigns, are hereby restrained~~

and enjoined from failing to create and retain for three (3) years the following records:

- A. All privacy and opt-out notices provided to consumers by or on behalf of Defendants;
- B. All opt-out requests received from consumers;
- C. All records related to the use or disclosure of any consumers' nonpublic personal information; and
- D. All sample scripts and direct mail pieces that Defendants are required to obtain and review, pursuant to Section II C. of this Order.

### XII. INDEPENDENCE OF OBLIGATIONS

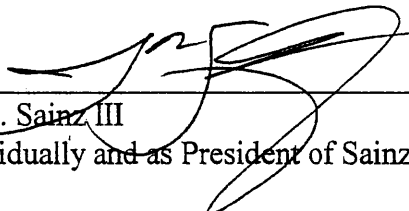
The parties hereby stipulate and agree to the terms and conditions set forth above and consent to entry of the foregoing Order, which shall constitute a final judgment in this action.

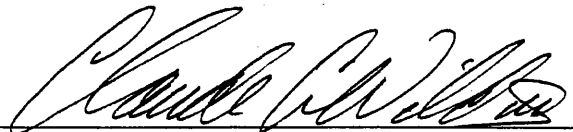
FOR PLAINTIFF:

[REDACTED]

Julie K. Brof (Washington Bar #34638)  
Federal Trade Commission  
915 Second Avenue, Suite 2896  
Seattle, Washington 98174  
(206) 220-4475 (telephone)  
(206) 220-6366 (facsimile)

FOR DEFENDANTS:

  
\_\_\_\_\_  
Joe P. Sainz III  
Individually and as President of Sainz Enterprises, LLC

  
\_\_\_\_\_  
Attorney for Defendants  
Claude C. Wild III (Colorado Bar #7230)  
Greenberg Traurig LLP

APPENDIX A

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 04-WM-2078 (CBS)

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

SAINZ ENTERPRISES, LLC, a Colorado corporation; and  
JOE P. SAINZ III, individually and as an officer of Sainz Enterprises,

Defendants.

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DECLARATION ACKNOWLEDGING RECEIPT OF ORDER

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Joe P. Sainz III, hereby states and affirms as follows:

1. My name is Joe P. Sainz. My current residence address is 15270 Kingston Court, Brighton, Colorado 80602. 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 Declaration.
2. I am a defendant in FTC v. Sainz Enterprises, LLC (United States District Court for the District of Colorado).

3. On \_\_\_\_\_, 2004, I received a copy of the Stipulated Final Judgment and

Order for Permanent Injunction, which was signed by the Honorable Walker D. Miller and

entered by the Court on \_\_\_\_\_, 2004.

I declare under penalty of perjury under the laws of the United States that the  
foregoing is true and correct. Executed on \_\_\_\_\_, 2004, at \_\_\_\_\_, Colorado.

\_\_\_\_\_  
Joe P. Sainz III



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Walker D. Miller

CERTIFICATE OF MAILING

Case No. 04-WM-2078 (CBS)

Copies of this Order were served by delivery; or depositing the same in the United States mail, postage prepaid, addressed to the persons listed below:

Julie K. Brof  
Federal Trade Commission

Claude C. Wild III  
Greenberg Traurig LLP

04F Second Avenue #2806

The Taber Center

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge Walker D. Miller

CERTIFICATE OF MAILING

Case No. 04-WM-2078(CBS)

~~Copies of this Order were served by delivery or depositing the same in the United~~

States mail, postage prepaid, addressed to the persons listed below:

Julie K. Brof  
Federal Trade Commission  
915 Second Ave. #2896  
Seattle, WA 98174

Claude C. Wild III  
Greenberg Traurig  
1200 17th St. #2400  
Denver, CO 80202

Dated: November 4, 2004

  
Deputy Clerk