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FEDERAL TRADE COMMISSION, Plaintiff,

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24 /I ORDER

consented to the entry of this Stipulated Permanent Injunction and Final Order fi

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("Stipulated Order" or "Order") without a trial or adjudication of any issue of law: .,,A
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or fact herein. (3

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25 11 DEFINITIONS

FINDINGS

1. This is an action by the Commission initiated under Section 13(b) of
the FTC Act, 15 U.S.C. 5 53(b). Pursuant to this section, the Commission has the authority to seek the relief contained herein.
2. This Court has jurisdiction of the subject matter of this case and the
parties hereto pursuant to 15 U.S.C. $5 45(a) and 53(b), and 28 U.S.C. $5 133 1, 1337(a), and 1345.
3. Venue in this district is proper pursuant to 15 U.S.C. 953(b) and
28 U.S.C. 5 1391(b) and (c).
4. The activities of defendants are "in or affecting commerce," as defined
in Section 4 of the FTC Act, 15 U.S.C. 5 44.
.5. The Complaint states a claim upon which relief may be granted against defendants under 15 U.S.C. $5 45(a) and 53(b).
6. The parties shall each bear their own costs and attorney's fees incurred
in this action and have waived ndants unsts

for the interbank clearing of credit and debit entries to accounts at financial LS
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.-9 institutions. .<- -.., ",-

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2. "ACH debit" shall mean any completed or attempted debit to ac 2.767 0 Td (debit")T

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customer inquiry that is answered during normal business hours; and the date,of
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I customer's oral authorization. 2: --
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4, 9. "Established business relationship" means a relationship between a 1.3

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seller and a consumer based on (1) the consumer's purchase, rental, or lease of the seller's goods or services or a financial transaction between the consumer and the seller, within the eighteen (1 8) months immediately preceding the date of a sales offer; or (2) the consumer's inquiry or application regarding a product or service offered by the seller, within the three (3) months immediately preceding the date of a sales offer.
10 "Payment processor" means any person providing any payment
processing services in connection with the sale or purchase of goods or services, including but not limited to depository financial institutions, third-party processors, data processing service bureaus, and any others who provide services to verify, correct or update account or bank routing data or formats.
11. "Person" means any natural person or organization, including but not limited to, any proprietorship, partnership, company, firm, corporation, joint venture, society, association, trust, or government agency or unit and any other group or combination acting as an entity.
12. "Telemarketing" means any business activity (whether or not covered
by the Telemarketing Sales Rule, 16 C.F.R. Part 3 10) that involves attempts to induce consumers to purchase any investment, item, good, service, partnership interest, trust interest or other beneficial interest, or to enter a contest for a prize, by means of telephone sales presentations, either exclusively or in conjunction with the use of other forms of marketing.

FEDERAL TRADE COMMISSION
911 Semnd Ave. Su 28%

Permanent Injunction, Page 4 of 14

I. PROHIBITED PRACTICES rJ
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IT IS THEREFORE ORDERED that defendants, and each of them, and gi --

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their successors, assigns, officers, agents, servants, employees, attorneys, joint venturers, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any corporation, subsidiary, division, or other device, are
hereby restrained and enjoined from:
A. Taking any action to process any payment, directly or on behalf of any
client, against any consumer's credit card or bank account without having
previously undertaken a reasonable investigation to determine that the consumer
has provided defendants or the client with express verifiable authorization;

12 1 B. Making any false representation to any payment processor regarding

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C. Processing or taking any action to process any charge or debit against

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a consumer's credit card or bank account for any client while knowing or
consciously avoiding knowing that the client does not have an established business relationship with the consumer.

any consumer's express verifiable authorization to process a payment against his or her credit card or bank account, expressly or by implication, orally or in writing;

11. REASONABLE INVESTIGATION 22
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Permanent Injunction, Page 5 of 14

IT IS FURTHER ORDERED that defendants, and each of them, and their successors, assigns, officers, agents, servants, employees, attorneys, joint venturers,

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FEDERAL TRADE COMISSION
915 Sand Ave. Su 28%
Slltllt. WUbn8ton 98174
(206) 120-6350

and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any corporation, subsidiary, division, or other device, are hereby restrained and enjoined from payment processing on behalf of any client without first engaging in are or

which the prospective client requests defendants' payment processing services to;,

IJJ -- ensure that the charges to be processed are authorized and that the prospective 5: dl
client is complying with the Telemarketing Sales Rule and the FTC Act. Such 5

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reasonable investigation shall include, but not be limited to:
A. Obtd [(the)23(Drvices18Tc 13.750.)Tj 0 msdJ 24.5ej3.75 e1Nritteude11(as845anc8

given month regarding unauthorized charges; or notice that the business practices violate the TSR, the NACHA Rules, or the FTC Act. Provided, however, that defendants may resume processing for any client if defendants determine, based on clear and conviflcing evidence, that the client's business practices did not violate, or no longer violate, the TSR, applicable NACHA Rules, or Section 5(a) of the FTC Act.

C. Failing to immediately investigate the cause for any return rate that
exceeds 2.5%, as well as all consumer complaints, and cease processing for any client engaged in unfair or deceptive acts or practices.

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Information indicating that business practices violate the TSR, applicable NACM
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- r Rules, or Section 5(a) of the FTC Act includes, but is not limited to: return rates 4- .:I
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that exceed the threshold set forth for return entry reporting requirements as v-> currently specified in Section 2.11.3 of the NACHA Rules or as the NACHA Rules may hereafter be

5 1) pursuant to this Paragraph shall be deemed a payment of any fine, penalty, or

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reasonably related to the defendants' practices alleged in the Complaint. Any L..l ,-',
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hnds not used for equitable redress shall be deposited to the United States 7 ,.- -

5 directly or indirectly, or in which he has a majority ownership interest, defendant I1

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subject matter of the Order. For current personnel, delivery shall be within five (5) -.
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days of service of the Order upon the corporate defendant. For new personnel, 45

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ac delivery shall occur prior to

3. Changes in corporate structure that may affect compliance (?,
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obligations arising under this Order, including bit not limited to a dissolution, :: ...

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assignment, sale, merger, or other action that would result in the emergence of a 5

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successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; the filiniof 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 Universal Processing learns less than thirty (30) days prior to the date such action is to take place, Universal Processing shall notify the Commission as soon as is practicable after obtaining such knowledge.
B. Defendant Rey Pasinli shall, for a period of five (5) years from the
date of entry of this Order, notify the Commission of any changes in his principal place of business, mailing addresses, and telephone numbers, and any changes in his name or use of any aliases or fictitious names, within ten (1 0) days of the date of such change.
C. One hundred eighty (180) days after the date of entry of this Order,
and thereafter within ten (1 0) days of receipt of written notice from a representative of the Commission, defendants shall each submit a written report to the Commission, sworn to under penalty of perjury, setting forth in detail the manner and form in w'hich they have complied and are complying with this Order. This report shall include, but not be limited to, any changes required to be reported pursuant to subparagraphs A and B, above: In addition, the report shall include information concerning defendants' provision of payment processing services to 1) any person where the chargeback or return rate exceeds two and one-half percent and 2) any person or company where one or more of the principals is not a U.S. resident or where consumers' paymentsare is not a

1 11 D. For the purposes of this Order, defendants shall, unless otherwise

Re ional Director
Fe % era1 Trade Commission
9 15 Second Avenue, Suite 2896
Seattle, WA 98174

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VIII. PLAINTIFF'S AUTHORITY TO MONITOR COMPLIANCE

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directed by the Commission's authorized representatives, mail all written 2: .--

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z: c notifications to the Commission to: i?

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8 1 IT IS FURTHER ORDERED that the Commission is authorized to monitor
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15 and investigating defendants' compliance with any provision of this Order; and I1

defendants' compliance with this Order by all lawhl means including, but not limited to, the following:
A. The Commission is authorized, without further leave of Court, to

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16 11 B. The Commission is authorized to use representatives posing as

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

17 consumers and suppliers to defendants, defendants' e,mployees,

of the

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M. RECORD KEEPING PROVISIONS ~3
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IT IS FURTHER ORDERED that, for a period of five (5) years from the 2; ,L....

G. All records relating to

The parties, by their respective counsel, hereby consent to the terms and

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