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1 the FTC Act, 15 U.S.C. § 45, and the FTC’s Trade Regulation Rule entitled “Disclosure
2 Requirements and Prohibitions Concerning Franchising and Business Opportunity
3 Ventures” (“Franchise Rule”), 16 C.F.R. Part 436, in connection with the advertising,
4 telemarketing, offering for sale, and sale of Internet business opportunities.

5 The Commission and defendants, having been represented by counsel and acting
6 by and through such counsel, have consented to the entry of this Stipulated Final
7 Judgment and Order for Permanent Injunction (“Order”) without a trial or adjudication
8 of any issue of law or fact herein.

9 NOW, THEREFORE, the Commission and defendants having requested the
10 Court to enter this Order,

11 **IT IS ORDERED, ADJUDGED, AND DECREED** as follows:

12 **FINDINGS**

13 1. This is an action by the Commission instituted under Sections 13(b) and 19
14 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b. Pursuant to these statutory provisions, the
15 Commission has the authority to seek the relief contained herein.

16 2. The Commission’s Complaint states a claim upon which relief may be
17 granted against defendants under Sections 5(a), 13(b), and 19 of the FTC Act, 15 U.S.C.
18 §§ 45(a), 53(b), and 57b.

19 3. This Court has jurisdiction over the subject matter of the case and all
20 parties hereto. Venue lies properly with this Court.

21 4. The alleged activities of defendants are in or affecting commerce, as
22 defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

23 5. The parties shall each bear their own costs and attorney’s fees incurred in
24 this action and have waived all claims under the Equal Access to Justice Act, 28 U.S.C.
25 § 2412, and all rights to seek judicial review, or otherwise to challenge the validity of
26 this Order.

27 6. This Order does not constitute, and shall not be interpreted to constitute,
28 either an admission by defendants or a finding by the Court that defendants’ acts or

1 practices violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), the Franchise Rule,
2 16 C.F.R. Part 436, or any other law or regulation.

3 7. The Stipulated Preliminary Injunction entered by this Court on February
4 25, 2005, is hereby vacated and superseded by this Order.

5 8. Entry of this Order is in the public interest.

6 **ORDER**

7 **Definitions**

8 1. “**Business venture**” means any written or oral business arrangement,
9 however denominated, that consists of the payment of any consideration for: (a) the
10 right or means to offer, sell, or distribute goods or services (whether or not identified by
11 a trademark, service mark, trade name, advertising, or other commercial symbol); and
12 (b) assistance to any person or entity in connection with or incident to the establishment,
13 maintenance, or operation of a new business or the entry by an existing business into a
14 new line or type of business.

15 2. “**Franchise**” has the meaning set forth in the Franchise Rule, 16 C.F.R.
16 § 436.2(a)(1)(i), 436.2(a)(1)(ii), and 436.2(a)(2).

17 3. “**Material**” means likely to affect a person’s choice of, or conduct
18 regarding, goods or services.

19 4. “**Work-at-home business opportunity**” means any program, plan,
20 product, or service represented to enable or assist a participant or purchaser to earn
21 money while working at home.

22 **I. PROHIBITED BUSINESS ACTIVITIES**

23 **IT IS THEREFORE ORDERED** that defendants, and their officers, agents,
24 servants, employees, and those persons or entities in active concert or participation with
25 them who receive actual notice of this Order by personal service or otherwise, including
26 by facsimile, are hereby permanently restrained and enjoined from:

27 A. In connection with the sale of any product or service:

28 1. Misrepresenting expressly or by implication any fact material to a

1 consumer's decision to purchase the product or service, including but not limited
2 to misrepresenting the income that a consumer is likely to earn if the consumer
3 purchases the product or service; and

4 2. Failing to disclose, prior to the consumer's payment for the product
5 or service, all material conditions and terms of any refund policy, or that refunds
6 are not provided if that is the case.

7 B. In connection with the sale of any product or service that is subject to the
8 Franchise Rule, violating or assisting others to violate any provision of the Franchise
9 Rule, including, but not limited to:

10 1. Failing to provide a prospective purchaser with a complete and
11 accurate disclosure document as prescribed by the Franchise Rule, 16 C.F.R.
12 § 436.1(a);

13 2. Failing to have a reasonable basis for any earnings claim at the time
14 such claim is made, as prescribed by the Franchise Rule, 16 C.F.R. § 436.1(b)-(e);

15 3. Failing to disclose, in immediate conjunction with any earnings
16 claim and in a clear and conspicuous manner, that material that constitutes a
17 reasonable basis for the earnings claim is available to the prospective purchasers
18 as prescribed by the Franchise Rule, 16 C.F.R. § 436.1(b)(2) and (c)(2); and

19 4. Failing to provide a prospective purchaser with an earnings claim
20 document as prescribed by the Franchise Rule, 16 C.F.R. § 436.1(b)-(e).

21 **II. DISCLOSURE OF CUSTOMER LISTS**

22 **IT IS FURTHER ORDERED** that defendants, and their officers, agents,
23 servants, employees, and those persons or entities in active concert or participation with
24 them who receive actual notice of this Order by personal service or otherwise, including
25 by facsimile, are hereby permanently restrained and enjoined from selling, renting,
26 leasing, transferring, or otherwise disclosing the name, address, telephone number, credit
27 card number, bank account number, e-mail address, or other identifying information of
28 any person who paid any money to any defendant at any time prior to entry of this Order,

1 in connection with the WSI business opportunity. Provided, however, that defendants
2 may disclose such identifying information to a law enforcement agency or as required by
3 any law, regulation, or court order.

4 **III. CONSUMER REDRESS**

5 **IT IS FURTHER ORDERED** that Judgment is entered against defendants
6 jointly and severally in the amount of \$14,812,169.00. Judgment shall be suspended and
7 payment shall be satisfied as follows:

8 A. Defendants shall transfer the entire balances from Bank of America
9 accounts 004966163799; 004964854770; 004961904869; 004961904652;
10 004961902751; 004678038536, totaling approximately \$80,200, to the Commission
11 within five (5) days of entry of this Order.

12 B. No later than five (5) days after entry of this Order, defendants shall
13 instruct holders of any credit card merchant account funds relating to WSI or ECN
14 customers (“merchant account funds”), including but not limited to Concord Payment
15 Systems, North American Bancard, Cynergy Data, and Discover Card, to transfer such
16 merchant account funds at the time mandated by the merchant account contract to an
17 escrow account to be set up by Lewis and Roca LLP, counsel for WSI and ECN, 40
18 North Central Avenue, Phoenix, Arizona, solely for the purpose of receiving and
19 disbursing these funds pursuant to this Order. The escrow account shall be used for
20 payment of Wilson’s and Roach’s outstanding state and federal tax debts for 2002, 2003,
21 and 2004, including owed taxes, interest, and penalties relating to pass-through income
22 from WSI and ECN (“tax debts”). Such payments shall be made within ten (10) days of
23 deposit of all funds into the account. Within thirty (30) days after all merchant account
24 funds have been deposited and the tax debts have been paid: 1) defendants shall provide
25 the Commission with copies of all tax returns and other communications between
26 defendants and the Internal Revenue Service or state taxing authorities related to the tax
27 debts; all instruments used to pay the tax debts; and a sworn written statement indicating
28 the total amount of merchant account funds deposited into the escrow account; and 2) the
escrow agent shall transfer to the Commission any funds remaining in the escrow

1 remedies) as it determines to be reasonably related to the defendants' practices alleged in
2 the Complaint. Any funds not used for such equitable relief shall be deposited to the
3 Treasury as disgorgement. Defendants shall be notified as to how the funds are
4 disbursed but shall have no right to challenge the Commission's choice of remedies
5 under this Section.

6 F. In the event of any default in any payment or transfer to the Commission
7 set forth in this Section, the amount of \$14,812,169.00, less the sum of any payments
8 made to the Commission pursuant to this Section, shall become immediately due and
9 payable by defendants, and interest computed pursuant to 28 U.S.C. § 1961, as amended,
10 shall im

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1 Court shall enter a judgment against the offending defendant(s) in favor of the
2 Commission in the amount of \$14,812,169.00. If the offending defendant is WSI or
3 ECN, the Court shall enter judgment against that entity and Wilson and Roach in favor
4 of the Commission in the amount of \$14,812,169.00. In either case the entire amount
5 shall become immediately due and payable. Provided, however, that in all other
6 respects, this Order shall remain in full force and effect unless otherwise ordered by this
7 Court; and provided further that proceedings instituted under this Section are in addition
8 to, and not in lieu of, any other civil or criminal remedies as may be provided by law,
9 including any other proceedings plaintiff may initiate to enforce this Order.

10 **V. DISSOLUTION OF ASSET FREEZE**

11 **IT IS FURTHER ORDERED** that, upon entry of this Order, the freeze against
12 defendants' assets pursuant to the Stipulated Preliminary Injunction entered by the Court
13 on February 25, 2005, shall be dissolved.

14 **VI. ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANTS**

15 **IT IS FURTHER ORDERED** that each defendant, within ten (10) business days
16 of receipt of this Order as entered by the Court, must submit to the Commission a
17 truthful sworn statement acknowledging receipt of this Order.

18 **VII. DISTRIBUTION OF ORDER BY DEFENDANTS**

19 **IT IS FURTHER ORDERED** that, for a period of three (3) years from the date
20 of entry of this Order, defendants shall deliver copies of the Order as directed below:

21 A. Corporate defendants WSI and ECN must deliver a copy of this Order to
22 all of their principals, officers, directors, and managers, and to all of their employees,
23 agents, and representatives who engage in conduct related to the subject matter of the
24 Order. For current personnel, delivery shall be within ten (10) days of service of this
25 Order upon defendants. For new personnel, delivery shall occur before they assume
26 their responsibilities.

27 B. Individual defendants Martin Q. Wilson and Shane Roach, as control
28 persons: For any business that either individual defendant controls, directly or
indirectly,

1 | or in which either individual defendant has a ma

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1 independent contractor is involved;

2 B. Failing to investigate fully any consumer complaint received by any
3 business to which this Section applies; and

4 C. Failing to take corrective action with respect to any sales person who
5 defendants determine is not complying with this Order, which may include training,
6 disciplining, and/or terminating such sales person.

7 IX. RECORDKEEPING

8 **IT IS FURTHER ORDERED** that, for a period of six (6) years from the date of
9 entry of this Order, defendants, in connection with any business where: (1) any
10 defendant is the majority owner of the business or directly or indirectly manages or
11 controls the business; and (2) the business is engaged in, or assists others engaged in, the
12 sale of franchises, business ventures, or work-at-home business opportunities, are
13 hereby restrained and enjoined from failing to create and retain the following records:

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

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

20 C. Customer files containing the names, addresses, telephone numbers, dollar
21 amounts paid, quantity of items or services purchased, and description of items or
22 services purchased, to the extent such information is obtained in the ordinary course of
23 business;

24 D. Complaints and refund requests (whether received directly, indirectly, or
25 through any third party) and any responses to those complaints or requests;

26 E. Copies of all sales scripts, training materials, advertisements, or other
27 marketing materials; and

28 F. All records and documents necessary to demonstrate full compliance with
each provision of this Order, including but not limited to copies of acknowledgments of

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

6 B. One hundred eighty (180) days after the date of entry of this Order,
7 defendants shall each provide a written report to the Commission, sworn to under penalty
8 of perjury, setting forth in detail the manner and form in which they have complied and
9 are complying with this Order. This report shall include, but not be limited to:

10 1. For each defendant Wilson and Roach:

- 11 a. His then-current residence address, mailing addresses, and
12 telephone numbers;
- 13 b. His then-current employment and business addresses and
14 telephone numbers, a description of the business activities of
15 each such employer or business, and the title and
16 responsibilities of the defendant for each such employer or
17 business; and
- 18 c. Any other changes required to be reported under subsection
19 A of this Section.

20 2. For all defendants:

- 21 a. A copy of each acknowledgment of receipt of this Order,
22 obtained pursuant to Section VII;
- 23 b. Any other changes required to be reported under subsection
24 A of this Section.

1 C. For the purposes of this Order, defendants shall, unless otherwise directed
2 by the Commission's authorized representatives, mail all written notifications to the
3 Commission to:

4 Charles A. Harwood
5 Regional Director
6 Federal Trade Commission
7 915 Second Avenue, Suite 2896
8 Seattle, WA 98174
9 Re: FTC v. Wealth Systems, Inc., Civil Action No. CV05-0394 PHX JAT

10 D. For purposes of the compliance reporting and monitoring required by this
11 Order, the Commission is authorized to communicate directly with defendants unless or
12 until a defendant informs the Commission that the defendant is represented by counsel
13 and would prefer that the Commission communicate directly with the defendant's
14 counsel.

15 **XI. COMPLIANCE MONITORING**

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

18 A. Within ten (10) days of receipt of written notice from a representative of
19 the Commission, each defendant shall submit additional written reports, sworn to under
20 penalty of perjury; produce documents for inspection and copying; appear for deposition;
21 and/or provide entry during normal business hours to any business location in such
22 defendant's possession or direct or indirect control to inspect the business operation;

23 B. The Commission is authorized to monitor compliance with this Order by
24 all other lawful means, including but not limited to the following:

25 1. obtaining discovery from any person, without further leave of court,
26 using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45;

27 2. posing as consumers to defendants, defendants' employees, or any
28 other entity managed or controlled in whole or in part by defendants, without the
necessity of identification or prior notice; and

C. Defendants shall permit representatives of the Commission to interview

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