

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MISSOURI

FEDERAL TRADE COMMISSION,

Case No. 4:09-cv-00005-DWM

[REDACTED]

the compliance-monitoring provisions in Paragraph XI, and the Court has fully considered the contentions of the parties, the record, and the applicable law; and

**WHEREAS** the Court has concluded that the Permanent Injunction should be modified with respect to Defendant Neiswonger, and remain in full force and effect except as specifically modified below, the Court now issues this Second Permanent Injunction, and finds as follows:

1. Defendant Neiswonger received actual notice of this Court's Final Judgment and Order for Permanent Injunction and Other Equitable Relief ("Permanent Injunction" or "Order").
2. Defendant Neiswonger has engaged in the advertising, marketing, promotion, and/or sale of a program as defined in the Permanent Injunction and herein, and has done so through means

of telemarketing, as that term is defined below:

[REDACTED]

remedies as may be provided by law, including both civil and criminal remedies.

#### **DEFINITIONS**

For the purposes of this Order, the following definitions apply:

A. "Document" is equal in scope and synonymous in meaning to the usage of the term in Federal Rule Civil Procedure 34(a), and includes writings, drawings, charts, graphs, photographs, audio and video recordings, computer records, electronic records and images, and any other data compilations from which information can be obtained (or translated, if necessary,

transit card, point of purchase material (including, but not limited to, a display or an item worn by salespeople), package insert, package label, film, slide, radio, broadcast or cable television, audio program transmitted over a telephone system, script used to make oral solicitations to

~~any other medium, including but not limited to, the Internet, any~~

b

other medium.

E. "Relate to" means refer to, concern, regard, reflect, discuss, constitute, mention,

~~contains or allude to, associated with. "Relate to" means referring to, concerning, according~~

**II.  
BAN ON TELEMARKETING**

**IT IS FURTHER ORDERED** that, pursuant to FED. R. CIV. P. 60(b) and the Court's inherent jurisdiction in the exercise of its equitable discretion, Defendant Richard C. Neiswonger is permanently restrained and enjoined from engaging or participating in telemarketing, directly or through an intermediary.

**III.  
COMPLIANCE MONITORING**

**IT IS FURTHER ORDERED** that, for the purpose of monitoring and investigating compliance with any provision of this Order and the Court's original Permanent Injunction

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

(A) Within ten (10) days of receipt of written notice from a representative of the Commission, Defendant Neiswonger shall submit additional written reports, sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and/or

(C) Defendant Neiswonger shall permit representatives of the Commission to

who has agreed to such an interview, relating in any way to any conduct subject to this Order or the Court's original Permanent Injunction. The person interviewed may have counsel present.

*Provided, however,* 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)).

with [redacted] [redacted] [redacted] [redacted]

statement of the nature of the business and a statement of

Defendant Neiswonger's duties and responsibilities in connection with the business or employment; and

(c) Any changes in Defendant Neiswonger's name or use of any aliases or fictitious names; and

(2) Defendant Neiswonger shall notify the Commission of any changes in

(1) The then-current residence address, mailing addresses, and telephone numbers of Defendant Neiswonger;

numbers of Defendant Neiswonger, a description of the business activities of each such employer or business, and the title and responsibilities of Defendant Neiswonger for each

(3) A copy of each acknowledgment of receipt of this Order, obtained pursuant to Paragraph V.

(4) Any other changes required to be reported under subparagraph A of this



receive actual notice of this Order by personal service or otherwise, in connection with the

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**VI.  
DISTRIBUTION OF ORDER BY DEFENDANT**

**IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of entry of this Order, Defendant Neiswonger shall deliver copies of the Order as directed below:

- (A) For any business that Defendant Neiswonger controls, directly or indirectly, or in which Defendant Neiswonger has a significant ownership interest, Defendant

[REDACTED]

[REDACTED]

of receipt of this Order as entered by the Court, must submit to the Commission a truthful sworn

statement acknowledging receipt of this Order.

**VIII.  
ORIGINAL PERMANENT INJUNCTION**

**IT IS FURTHER ORDERED** that the Court's original Permanent Injunction in this matter remains in full force and effect, except as specifically modified and superceded by this Order.

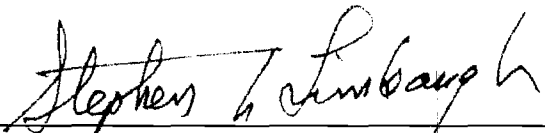
**IX.  
ORDER ENTRY**

**IT IS FURTHER ORDERED** that there is no just reason for delay of entry of this Order, and, pursuant to Fed.R.Civ.P. 54(b), the Clerk shall enter this Order immediately.

**X.  
RETENTION OF JURISDICTION**

**IT IS FURTHER ORDERED** the Court shall continue to retain jurisdiction of this matter for all purposes.

Dated this 23rd day of April, 2007.

  
SENIOR UNITED STATES DISTRICT JUDGE