### HAITED OF ATEC DISTRICT COURT

### SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

# FEDERAL TRADE COMMISSION,

Plaintiff,

v.

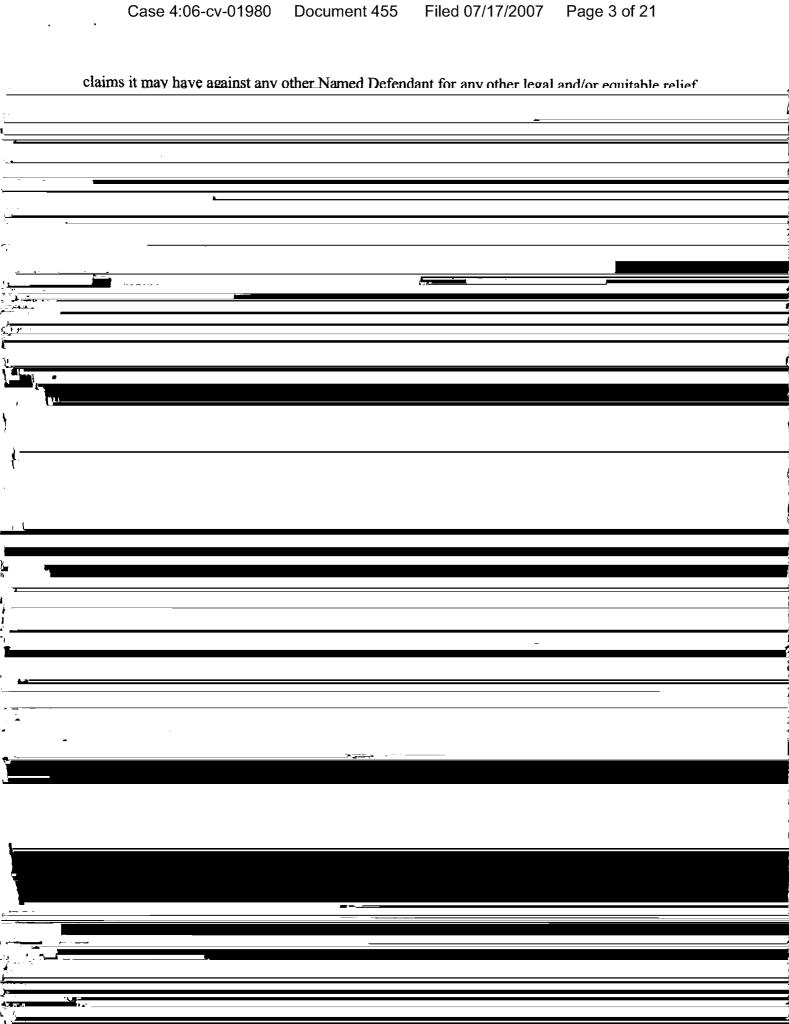
Civ. No.: H-06-1980

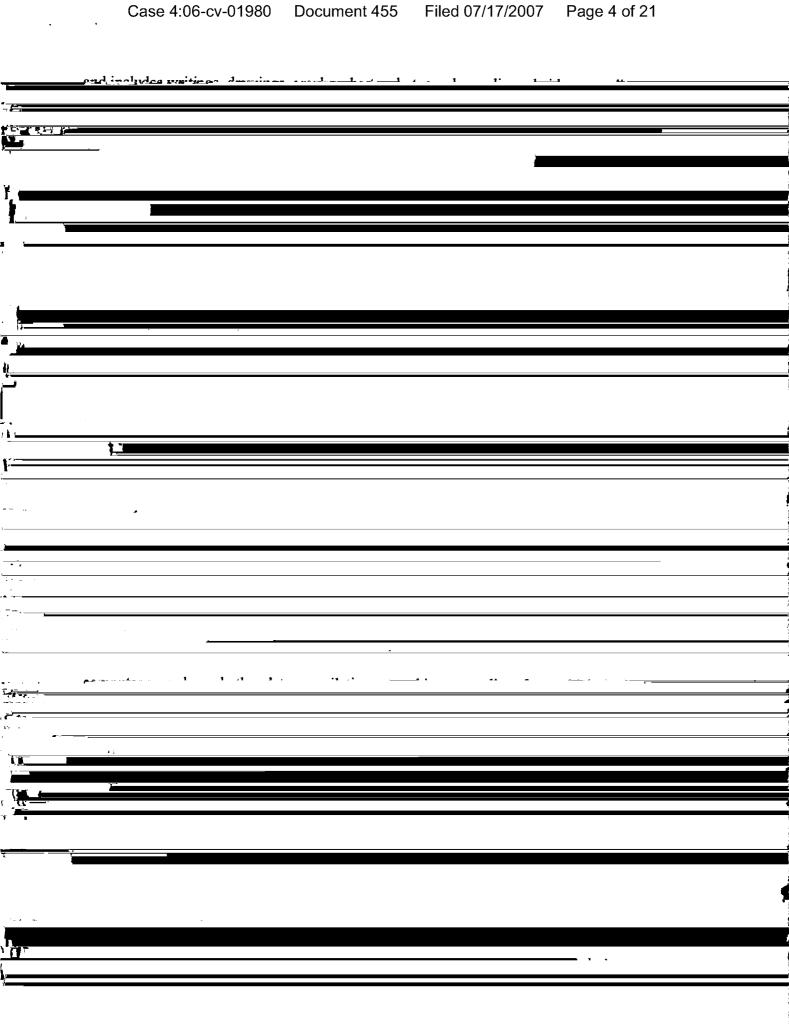
WEBSOURCE MEDIA, L.L.C., et al.,

Defendants.

## STIPULATED FINAL JUDGMENT AND ORDER FOR PERMANENT INJUNCTION

Case 4:06-cv-01980 Document 455 Filed 07/17/2007 Page 2 of 21 this Final Judgment and Order without trial or adjudication of any issue of law or fact herein and without Defendant Marc R. Smith admitting liability for any of the violations alleged in the Amended Complaint.

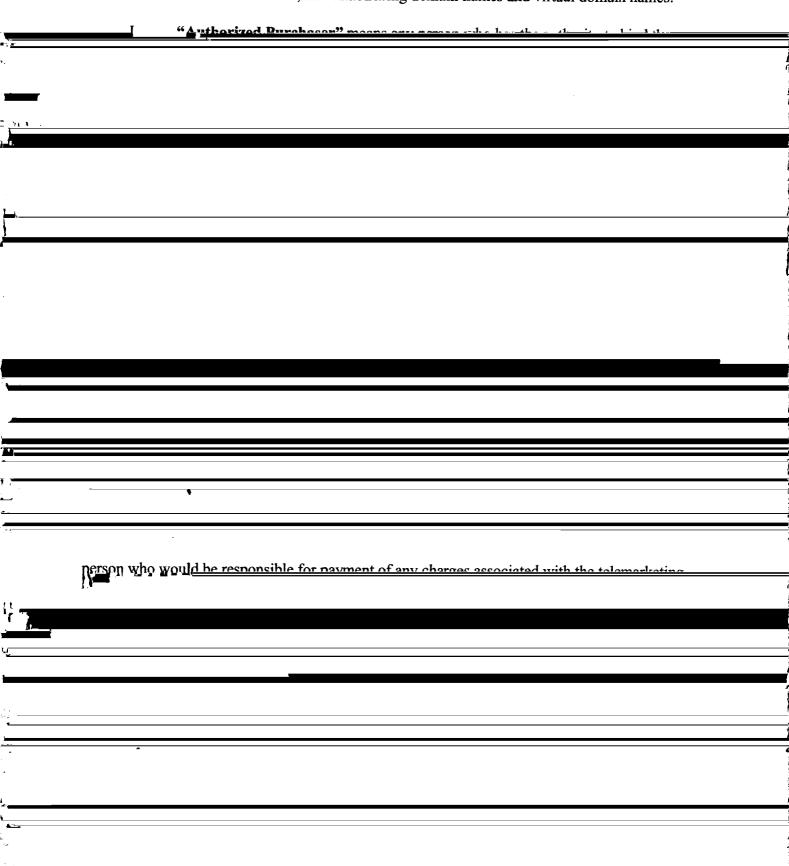




Case 4:06-cv-01980 Document 455 Filed 07/17/2007 Page 5 of 21

but not limited to: design, hosting and maintenance of web pages and websites, providing

Internet access or e-mail accounts, and establishing domain names and virtual domain names.



Document 455

"signed" shall include an electronic or digital form of signature, to the extent that such form of signature is recognized as a valid signature under applicable federal law or state contract law.

"Express oral authorization" means oral authorization which is audio-recorded L. by an independent third-party and made available upon request to the authorized purchaser, the authorized purchaser's bank, credit card company, or telephone company, and which evidences clearly both the authorized purchaser's authorization of payment from a particular account for the goods or services which are the subject of the telemarketing transaction and the authorized purchaser's receipt of all of the material terms of the offer of goods or services prior to the authorization. An audio recording of the entire telemarketing transaction must be made and

which is recorded for the purpose of documenting the authorized purchaser's express oral

authorization to be billed for goods and services.

#### **ORDER**

### I. PROHIBITED MISREPRESENTATIONS

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED that in connection

with the telemarketing, advertising, promotion, offering for sale, or sale of any Internet services,

Defendant Marc R. Smith, his agents, servants, employees, and attorneys, and all other persons or
entities in active concert or participation with him who receive actual notice of this Final

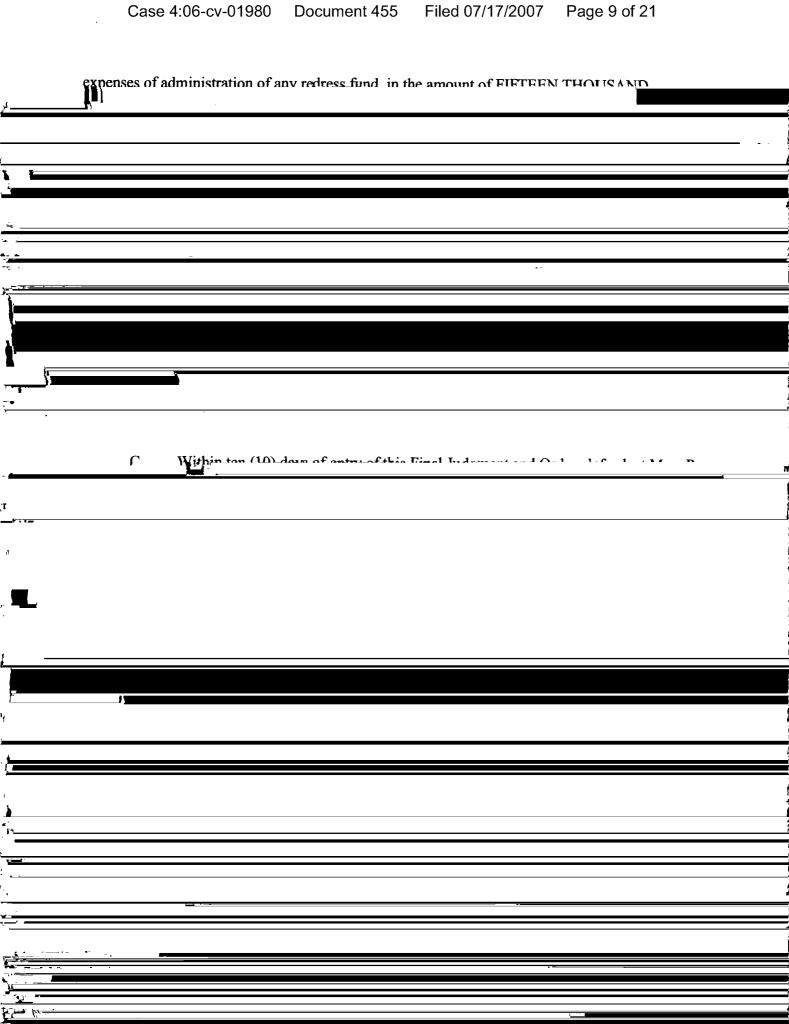
Judgment and Order by personal service or otherwise, whether acting directly or through any
business entity, corporation, subsidiary, affiliate, division, or other device, are hereby

permanently restrained and enjoined from misrepresenting, expressly or by implication, any

material fact, including, but not limited to, misrepresenting:

- A. That a free trial service will be cancelled automatically if the authorized purchaser does not affirmatively approve the continuation of the service;
- B. That a verification recording is being made for any purpose other than to document the authorized purchaser's express informed consent; and
- C. That an authorized purchaser is obligated to pay any charge for which the authorized purchaser has not given express informed consent.

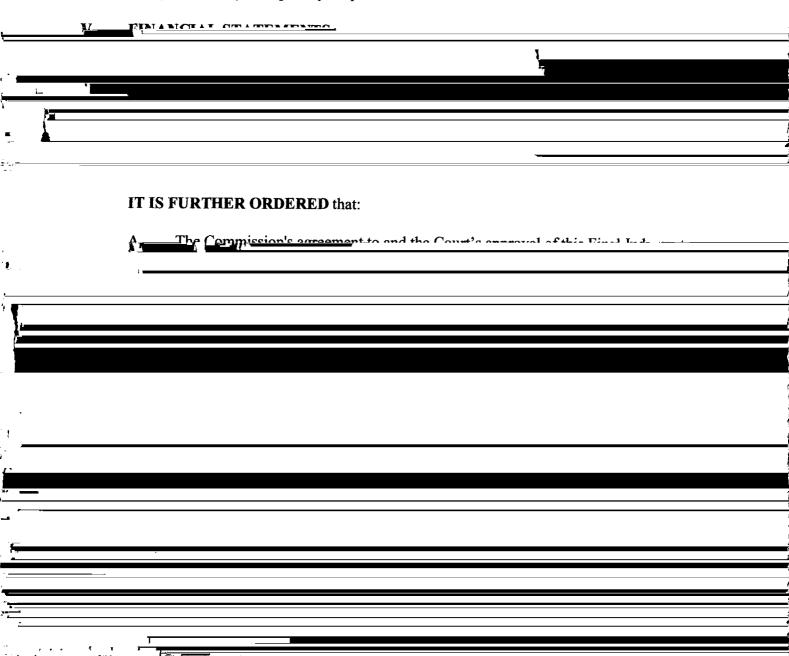
Case 4:06-cv-01980 Document 455 Filed 07/17/2007 Page 8 of 21 subsidiary, affiliate, division, or other device, are hereby permanently restrained and enjoined from, directly or indirectly, billing or receiving money, or assisting others in billing or receiving money, from any authorized purchaser without the authorized purchaser's express informed consent. IT SELIRTHER ORDERED that Defendant More D Smith in haraby named and

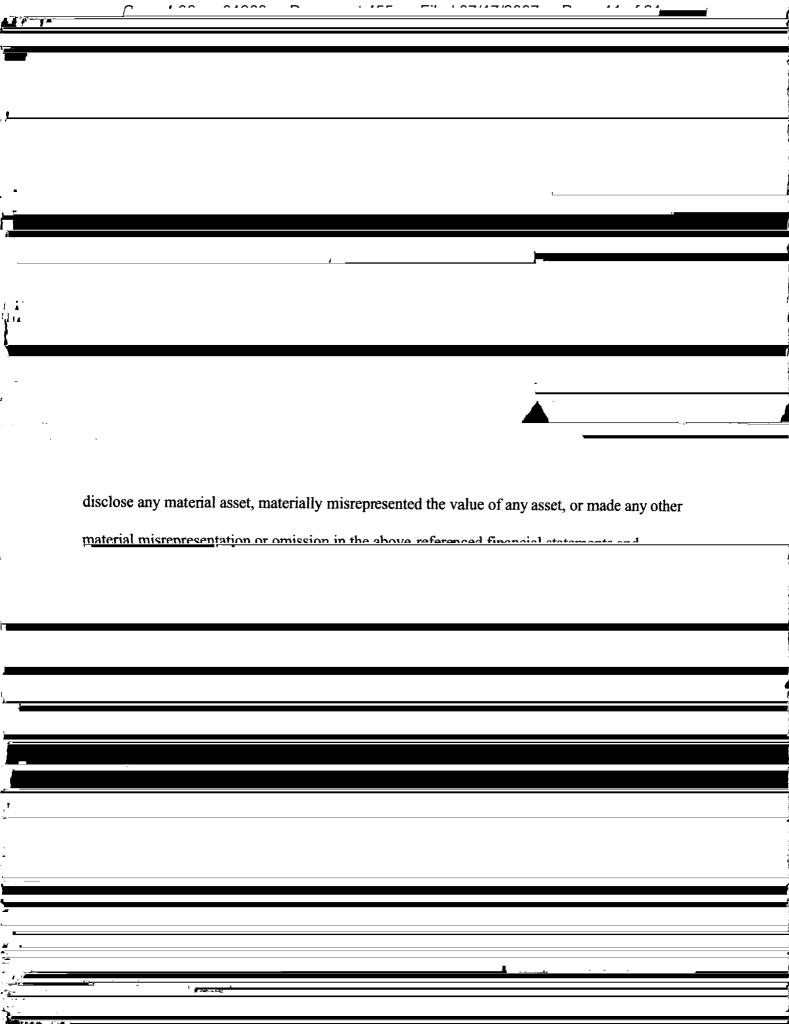


equitable relief (including consumer information remedies) as it determines to be reasonably related to the Defendants' practices alleged in the Complaint. Any funds not used for such equitable relief shall be deposited to the Treasury of the United States as disgorgement.

Defendant Marc R. Smith shall have no right to challenge the Commission's choice of remedies under this Section.

F. Defendant Marc R. Smith shall have no right to contest the manner of distribution chosen by the Commission. No portion of any payments under the judgment herein shall be deemed a payment of any fine, penalty, or punitive assessment.

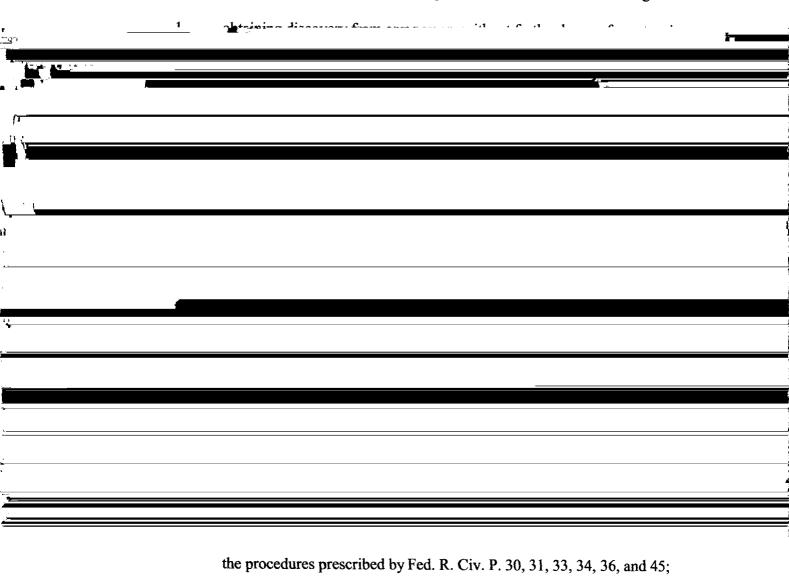




Filed 07/17/2007

Within twenty (20) days of receipt of written notice from a representative of the A. Commission, Defendant Marc R. Smith shall submit additional written reports, sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and/or provide entry during normal business hours to any business location in his possession or under his direct or indirect control to inspect the business operation;

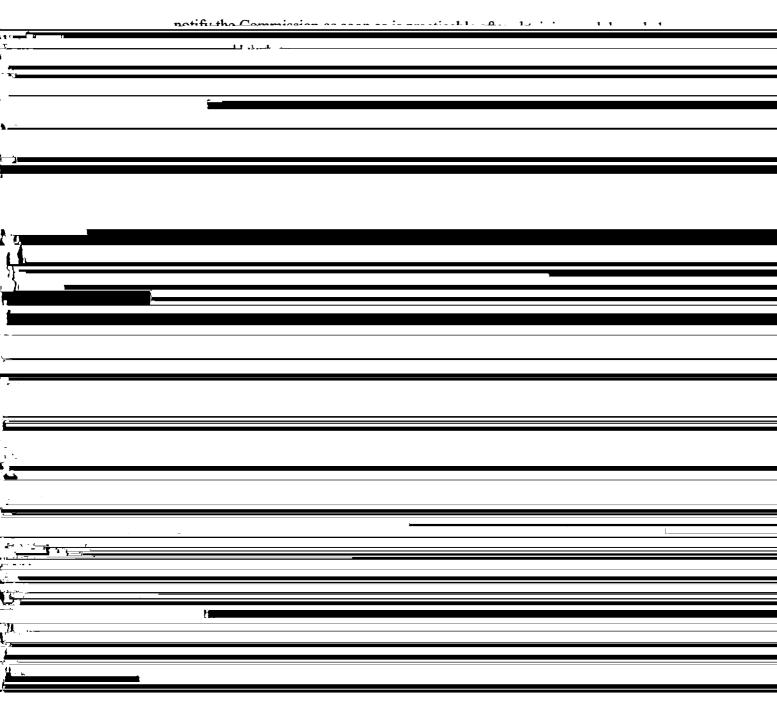
B. In addition, the Commission is authorized to monitor compliance with this Final Judgment and Order by all other lawful means, including, but not limited to, the following:



Posing as consumers and suppliers to Defendant Marc R. Smith. his 2.

employees, or the employees of any entity he manages or controls in whole or in nort without the necessity of identification on which well ...

engages in any acts or practices subject to this Final Judgment and 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 Defendant Marc R. Smith learns less than thirty (30) days prior to the date such action is to take place, he shall



Case 4:06-cv-01980 Document 455 Filed 07/17/2007 Page 15 of 21 businesses has submitted, directly or indirectly, billings, including, but not limited to, telephone Local Exchange Carriers, billing aggregators, and credit card processors;

of this Final Judgment and Order, have made complaints to, and/or requested refunds from, Defendants Marc R. Smith and each of his businesses; and

- A list of all domain names and web page addresses Defendant Marc R. Smith has registered or used in connection with telemarketing or marketing through the Internet.
- C. For the purposes of this Final Judgment and Order, the Defendant Marc R. Smith shall, unless otherwise directed by the Commission's authorized representatives, mail all written notifications to the Commission to:

Case 4:06-cv-01980 Document 455 Filed 07/17/2007 Page 16 of 21

actual notice of this Final Judgment and Order by personal service or otherwise, whether acting directly or through any business entity, corporation, subsidiary, division, affiliate, or other device, in connection with any business which involves telemarketing or the advertising, promotion,

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	create and retain the following records:		
	create and retain the following records:		

- Accounting records that reflect the cost of goods or services sold, revenues A. generated, and the disbursement of such revenues;
  - B. Personnel records accurately reflecting: the name, address, and telephone number

Page 17 of 21 Case 4:06-cv-01980 Document 455 Filed 07/17/2007 Copies of all sales scripts, training materials, advertisements, or other promotional E. or marketing materials; Copies of all contracts or agreements with telephone companies; F. Copies of all contracts or agreements with billing aggregators; H.

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Case 4:06-cv-01980 Page 18 of 21 Document 455 Filed 07/17/2007 mananere of that business He must also delision assiss of this Time! I. 1. employees, agents, and representatives of that business who engage in conduct related to the subject matter of this Final Judgment and Order. For current personnel, delivery shall be within five (5) days of carries of this Final Judament and Orden una Defendant De

Case 4:06-cv-01980 Document 455 Filed 07/17/2007 Page 19 of 21

Commission shall reasonable request, after written notice, for interviews, conferences, pretrial discovery, review of documents, and for such other matters as may be reasonably requested by the Commission. If requested in writing by the Commission, Defendant Marc R. Smith shall appear and provide truthful testimony in any trial, deposition, or other proceeding related to or associated with the transactions or the occurrences that are the subject of the Amended



Case 4:06-cv-01980 Page 20 of 21 Document 455 Filed 07/17/2007 purposes of construction, modification and enforcement of this Final Judgment and Order. IT IS SO ORDERED. ENTERED, this 17 day of July, 2007.

Marc R. Smith:

### COUNSEL FOR THE DEFENDANT MARC R SMITH

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