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Rule (“TSR”), 16 C.F.R. Part 310; the Electronic Fund Transfer Act (“EFTA”), 15 U.S.C. §§ 1693-1693r; and Section 205.10(b) of Regulation E, 12 C.F.R. § 205.10(b) (“Regulation E”).

The Commission filed the initial complaint, which named Espitia, Instant Way, Alberto Salama, and Remote Response, on January 23, 2006, along with a motion for a temporary restraining order, appointment of receivers, and asset freezes. On February 15, 2006, the Court entered the Stipulated Preliminary Injunction with Asset Freeze, Appointment of Permanent Receivers, and Other Equitable Relief (“First Preliminary Injunction”) as to Defendants Remote Response, Instant Way, Defendant Espitia, and Alberto Salama. Defendant Espitia and Instant Way filed a joint answer to the complaint on March 1, 2006. On May 11, 2006, the Court granted the motion of attorney Ceasar Mestre, Jr., Esq. (“Mestre”) to withdraw as counsel for Defendant Espitia. On June 5, 2006, the Commission filed its First Amended Complaint, which made no change to the substantive allegations of the complaint, but named Elias Salama, Samuel Salama, and Bensabat as defendants. On June 20, 2006, the Court entered the Stipulated Preliminary Injunction With Asset Freeze and Other Equitable Relief as to Defendants Elias Salama and Samuel Salama (“Second Preliminary Injunction”). Both Defendant Espitia and Instant Way failed to answer the First Amended Complaint, and having failed, as ordered by the Court, to secure counsel, on August 1, 2006, the Court entered the Default Judgment and Order for Permanent Injunction as to Instant Way. Defendant Espitia represents himself *pro se* in this action.

The Commission, through its undersigned attorneys, and Defendant Espitia, despite having been advised by counsel for the Commission to obtain counsel, on his own behalf *pro se*,

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stipulate to entry of this Stipulated Final Order for Permanent Injunction and Monetary Judgment (“Order”) to resolve all matters of dispute between them.

IT IS THEREFORE STIPULATED, AGREED, AND ORDERED AS FOLLOWS:

FINDINGS

1.

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8. This Order shall not be construed as an admission of liability by Defendant Espitia for the unfair or deceptive trade practices or other violations of law alleged in the First Amended Complaint.
9. Defendant Espitia has waived all rights to seek judicial review or otherwise challenge or contest the validity of this Order, and further waives and releases any claim he may have against

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jointly or singly, Instant Way Corporation, Instant Way dba Marketing Solutions, Art Trading Group, Inc., and Art Trading Group dba Marketing Solutions, in the amount as of the date the funds were frozen, plus any interest payable by the financial institution, without deducting any costs, fees, or interest payable to the financial institution, and any funds deposited into any frozen account pursuant to prior order of the Court.

5. "Consumer" means a purchaser, customer, subscriber, or natural person.
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direct deposits or withdrawals of funds, transfers initiated by telephone, and transfers resulting from debit card transactions, whether or not initiated through an electronic terminal.

10. “Free-to-pay conversion” means, in an offer or agreement to sell or provide any goods or services, a provision under which a customer receives a product or service for free for an initial period and will incur an obligation to pay for the product or service if he or she does not take affirmative action to cancel before the end of that period.

11. “Health discount plan” means any plan that, for payment of a membership fee, provides to consumers a list of health care providers or sellers of health-related products who offer discounts to members of the plan.

12. “Person” means any individual, group, unincorporated association, limited liability company, limited or general partnership, corporation, or other business entity.

13. “Preauthorized electronic fund transfer” means an electronic fund transfer authorized in advance to recur at substantially regular intervals.

14. “Properties” means the condominiums located at:

- A. the Sutton House Condominium, 1885 N.E. 121 Street, No. 11, N. Miami, Florida, 33181, recorded in Official Records Book 23548, Page 3644, of the Public Records of Miami-Dade County, Florida; and
- B. the Sutton House Condominium, 11855 N.E. 19th Drive, No. 16, N. Miami, Florida 33181, recorded in Official Records Book 23548, Page 3644, of the Public Records of Miami-Dade County, Florida;

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together with other structures, improvements, appurtenances, hereditaments, and other rights appertaining or belonging thereto.

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4. Not be charged for the products or services if they cancel the free-to-pay conversion offer during the time period and in the manner prescribed;
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- C. Prior to expiration of any stated free-trial period;
- D. After a consumer has cancelled; and/or
- E. After a consumer has been, directly or indirectly, inhibited or thwarted in his or her ability to cancel.

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limited liability company, partnership, subsidiary, division, trust, or other device, are hereby permanently restrained and enjoined from:

A. Selling, renting, leasing, transferring, or otherwise disclosing customer lists containing the name, address, social security number, date of birth, telephone number, credit card number, debit card number, bank account number, e-mail address, or other identifying information of any customer who purchased, or was solicited to purchase, the Amerikash Master Card, other incentive items, and/or the Amerikhealth discount health plan that are the subject of the First Amended Complaint, from any of the defendants in this action, at any time prior to entry of this Order, in connection with the telemarketing, advertising, promoting, offering for sale, or sale of any product or service, including, but not limited to, advance-fee credit cards, credit cards, debit cards, ATM cards, stored value cards, discount health cards, phone cards, travel or gas vouchers, or vacation package discounts; or

B. Making any use of customer lists referenced in this Paragraph V in any business, whether or not related to the present action;
provided, however, that Defendant Espitia may disclose such identifying information to a law enforcement agency or as required by any law, regulation, or court order.

MONETARY RELIEF

VI.

IT IS FURTHER ORDERED that judgment in the amount of \$4,163,558.35, which is the amount paid by approximately 30,674 consumers for the Amerikash Master Card, other incentive items, and the Amerikhealth discount health plan that are the subject of the First Amended Complaint, is hereby entered against Defendant Espitia, jointly and severally, as

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No. 16, N. Miami, FL 33181 - Bank of New York (serviced by Countrywide); Defendant Espitia agrees that, as of the date on which he signs this Order, he shall refrain from transferring, converting, encumbering, selling, assigning, or otherwise disposing of the Properties, except with the express prior written permission of the Commission.

Defendant Espitia hereby releases and waives any statutory, common law, or other homestead exemption that may apply to the Properties, and shall not declare and claim any homestead exemption in the Properties;

2. Defendant Espitia shall cooperate fully with the Commission, and shall prepare, execute, and record the necessary documents, and do whatever else the Commission deems necessary or desirable to perfect, evidence, and effectuate the liens and security interests granted herein. If he has not already done so, Defendant Espitia shall prepare, execute, and deliver (at his expense) to the Commission mortgages or deeds of trust in form and substance satisfactory to the Commission (the "Security Documents") no later than five (5) days after the date of entry of this Order, and take such other steps as the Commission may require to perfect, evidence, and effectuate its liens, security interests, and assignments, and to carry out the purposes of this Order. Defendant Espitia shall be responsible for paying all fees and costs (including attorneys' fees and filing fees) required in connection with the liens and security interests granted herein, including all fees and costs related to the preparation, execution, delivery, filing,

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continuation, and termination of such liens and security interests and to

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number of the individual closing agent; and (d) a copy of the proposed settlement statement to be used at closing and reflecting the payment at closing to the Commission of the gross proceeds received from the purchaser less any reasonable and customary closing costs incurred in connection with such sale, including brokerage fees and closing costs, provided that all such reasonable and customary closing costs must be first approved by the Commission, which approval shall not be unreasonably withheld;

5. In connection with any attempt to sell the Properties, Defendant Espitia:
 - a. shall notify the Commission of the amount of any offer to purchase the Properties immediately upon receiving each such offer and the name(s) and address(es) of any person(s) or entity(ies) making such offer; and
 - b. may make any reasonable and necessary repairs, upon written approval by the Commission, to prepare the Properties for sale;
6. Whether sold by Defendant Espitia or the mortgage holders of the Properties, the Property Net Proceeds shall be paid to the Commission, as follows:
 - a. If one or more of the Properties are sold prior to the date of entry of this Order and pursuant to the March 20, 2007 Order, the Property Net Proceeds shall be deposited, if they have not already been so deposited, in the BOA Frozen Accounts, or into an interest-bearing account at a financial institution agreed upon by the parties hereto, or into the Court

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Registry, and the financial institution or entity holding such frozen Property Net Proceeds shall, within ten (10) business days of the date of service of this fully executed Order, transfer the frozen Property Net Proceeds to the Commission or its designee or agent, in accordance with, and in addition to the amounts set forth in, Paragraph VI. A., if applicable, by wire transfer in accordance with wiring instructions to be provided by the Commission;

- b. If one or more of the Properties are sold on or after the date of entry of this Order, the Property Net Proceeds shall be paid directly to the Commission or its designee or agent within ten (10) business days of the closing, by wire transfer in accordance with wiring instructions to be provided by the Commission;
- c. Defendant Espitia shall transfer any Property Net Proceeds he receives to the Commission or its designee or agent, by wire transfer in accordance with wiring instructions to be provided by the Commission;
and
- d. The Commission shall not be responsible for any losses, taxes, and/or other liabilities resulting from the sale of the Properties;

C. Defendant Espitia relinquishes all dominion, control, and title to, and shall make no claim to, or demand for the return of, any funds paid to the Commission pursuant to this Paragraph VI, which shall be irrevocably paid to the Commission;

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D. Defendant Espitia shall take no deduction, capital loss, write-off, or any other tax benefit on any federal or state tax return, amended tax return, IRS Form 1045, or any other tax filing, for all or any part of any payment (whether cash or non-cash) to the Commission toward satisfaction of the judgment. Defendant Espitia shall remain responsible for any tax liability associated with or attributable to any income from the sale of the Properties. Defendant Espitia's federal or state tax returns, amended returns, IRS Form 1045's, and other tax filings for tax years 2005 through 2008 not already submitted to federal or state tax authorities shall be prepared and signed by an independent CPA, and a copy of any such document, complete with all attachments, shall be submitted to the Commission at the same time it is submitted to the federal or state tax authority, by delivering it to: Associate Director, Federal Trade Commission, Division of Enforcement, 600 Pennsylvania Ave., NW, Mail Drop NJ-2122, Washington, D.C. 20580, by overnight delivery or facsimile at 202-326-2558;

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testimony through the date of this Order (together, the “financial disclosures”), all of which Defendant Espitia stipulates are truthful, accurate, and complete. Defendant Espitia and the Commission stipulate that the Commission has relied upon the truthfulness, accuracy, and completeness of the financial disclosures in agreeing to this Order and that the Commission would not have consented to the suspension of the monetary judgment, but for the truthfulness, accuracy, and completeness of the financial disclosures;

F. If Defendant Espitia fully complies with the provisions set forth in this Paragraph VI, the monetary judgment established by this Order shall be suspended; *provided, however*, that, if, upon motion by the Commission, the Court finds:

1. that Defendant Espitia has not fulfilled, or has only partially fulfilled, the conditions set forth in Paragraphs VI. A. through VI. D.; or
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§ 1961, as amended. The Commission shall be permitted to execute upon the judgment immediately after the suspension is lifted and to engage in discovery in aid of execution;

G. Lifting the suspension and reinstating the judgment pursuant to Paragraph VI. F. shall not affect any other provisions of this Order, which shall remain in full force and effect, unless otherwise ordered by the Court;

H. This judgment shall not be abstracted or otherwise filed as a lien against Defendant Espitia's property unless and until this Court lifts the suspension of the monetary judgment pursuant to Paragraph VI. F.; *provided, however*, that the Commission may immediately record its lien and security interest, created by Paragraph VI. B., against the Properties;

I. The Commission and Defendant Espitia acknowledge and agree that: (1) the judgment herein for equitable monetary relief is solely remedial in nature and no portion of any payments under such judgment shall be deemed a payment of any fine, penalty, punitive assessment, or forfeiture, and (2) any proceedings instituted under Paragraph VI are in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including

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LIFTING OF THE ASSET FREEZE

VII.

IT IS FURTHER ORDERED that, to the extent not already lifted by prior Court order, the freeze of the assets of Defendant Espitia, pursuant to Paragraphs VI and VII of the First Preliminary Injunction, shall be lifted to effectuate the transfer of assets in partial satisfaction of the monetary judgment as provided in Paragraph VI of this Order, and shall be of no further force

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Injunctions and this Order, including transferring funds at the Remote Response Receiver's direction and producing records related to the assets and sales of the Receivership Defendant. The entities obligated to cooperate with the Remote Response Receiver under this provision include, but are not limited to, banks, broker-dealers, savings and loans, escrow agents, title companies, commodity trading companies, precious metals dealers, and other financial institutions and depositories of any kind, and all third-party billing agents, local exchange carriers, common carriers, and other telecommunications companies, that have transacted business with the Receivership Defendant; and

C. Unless directed by the Remote Response Receiver, Defendant Espitia is hereby restrained and enjoined from directly or indirectly:

1. Interfering with the Remote Response Receiver's ability to manage, or take custody, control, or possession of, the assets or documents subject to the Receivership;
2. Transacting any of the business of the Receivership Defendant;
3. Transferring, receiving, altering, selling, encumbering, pledging, assigning, liquidating, or otherwise disposing of any assets owned, controlled, or in the possession or custody of, or in which an interest is held or claimed by, the Receivership Defendant or the Remote Response Receiver; and
4. Failing to cooperate with the Remote Response Receiver or his duly authorized agents in the exercise of their duties or authority under any order of this Court.

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COOPERATION WITH COUNSEL FOR THE COMMISSION

IX.

IT IS FURTHER ORDERED that Defendant Espitia shall, in connection with this action or any subsequent investigations related to or associated with the transactions or the occurrences that are the subject of the Commission's First Amended Complaint, or related to or associated with compliance with any provision of this Order, cooperate in good faith with the Commission and appear at such places and times as the Commission shall reasonably 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 Espitia shall promptly execute requested documents and 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 First Amended Complaint or related to or associated with compliance with any provision of this Order, without the service of a subpoena. Defendant Espitia shall promptly execute documents and take any other actions requested by the Commission in connection with the sale of the Properties; the transfer to the Commission of the BOA Frozen Accounts and Property Net Proceeds; or as may otherwise be required to effectuate this Order.

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COMPLIANCE REPORTING BY DEFENDANT

XII.

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

A. For a period of five (5) years from the date of entry of this Order, Defendant Espitia shall notify the Commission of the following:

1. Any changes in residence, mailing addresses, and telephone numbers of Defendant, within ten (10) days of the date of such change;
2. Any changes in employment status (including self-employment) of Defendant, and any change in the ownership of Defendant in any business entity, within ten (10) days of the date of such change. Such notice shall include the name and address of each business that Defendant is affiliated with, employed by, creates or forms, or performs services for; a statement of the nature of the business; and a statement of Defendant's duties and responsibilities in connection with the business or employment;
3. Any changes in Defendant's name or use of any aliases or fictitious names; and
4. Any changes in the corporate structure of Instant Way or any business entity that Defendant Espitia directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under

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entity; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; the filing of a

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

Associate Director
Bureau of Consumer Protection
Division of Enforcement
Federal Trade Commission
600 Pennsylvania Avenue, N.W. Mail
Drop NJ-2122
Washington, D.C. 20580
Re: *FTC v. Remote Response Corp.*, Civil Action No.
06cv20168 (S.D. Fla. 2006)

D. For purposes of the compliance reporting and monitoring required by this Order, the Commission is authorized to communicate directly with Defendant Espitia.

RECORD KEEPING PROVISIONS

XIII.

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry of this Order, Defendant Espitia, in connection with any business that he directly or indirectly manages, controls, or has a majority ownership interest in, and his agents, employees, and assigns, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from failing to create and retain the following records:

- A. Accounting records that reflect the cost of goods or services sold, revenues generated, and the disbursement of such revenues;
- B. Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by such business, including as an independent contractor;

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entry during normal business hours to any business location in such Defendant's possession or direct or indirect control to inspect the business operation;

B. In addition, the Commission is authorized to monitor compliance with this Order

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COMPLETE SETTLEMENT

XV.

IT IS FURTHER ORDERED that entry of the foregoing Order shall constitute a final judgment and order in this matter. The entry of the foregoing Order shall constitute a full, complete, and final settlement of this action.

SEVERABILITY

XVI.

IT IS FURTHER ORDERED that the provisions of this Order are separate and severable from one another. If any provision is stayed or determined to be invalid, the remaining provisions shall remain in full force and effect.

RETENTION OF JURISDICTION

XVII.

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

SO STIPULATED:

FOR THE FEDERAL TRADE COMMISSION: FOR THE DEFENDANT:

JAMES A. KOHM
Associate Director for Enforcement

ROBERT KAYE
Assistant Director for Enforcement

s/ Patricia F. Bak
PATRICIA F. BAK A5500988
EDWIN RODRIGUEZ A5500818

s/ German Espitia
GERMAN ESPITIA (*Pro Se*)
and as principal of Instant Way Corporation,
Instant Way dba Marketing Solutions, Art
Trading Group, Inc., and Art Trading
Group dba Marketing Solutions
4138 Forest Drive
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JUDGMENT IS THEREFORE ENTERED pursuant to all the terms and conditions recited above.

DONE AND ORDERED in Chambers at Miami, Florida this 22nd day of August, 2007.


CECILIA M. ALTONAGA
UNITED STATES DISTRICT JUDGE

cc: Magistrate Judge William C. Turnoff
counsel of record