

1 WILLIAM BLUMENTHAL
General Counsel
2 JAMES A. TRILLING (*Admitted Pro Hac Vice*)
3 CARL SETTLEMYER (*Admitted Pro Hac Vice*)

FILED
CLERK, U.S. DISTRICT COURT

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WHEREAS Plaintiff Federal Trade Commission ("Plaintiff" or

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

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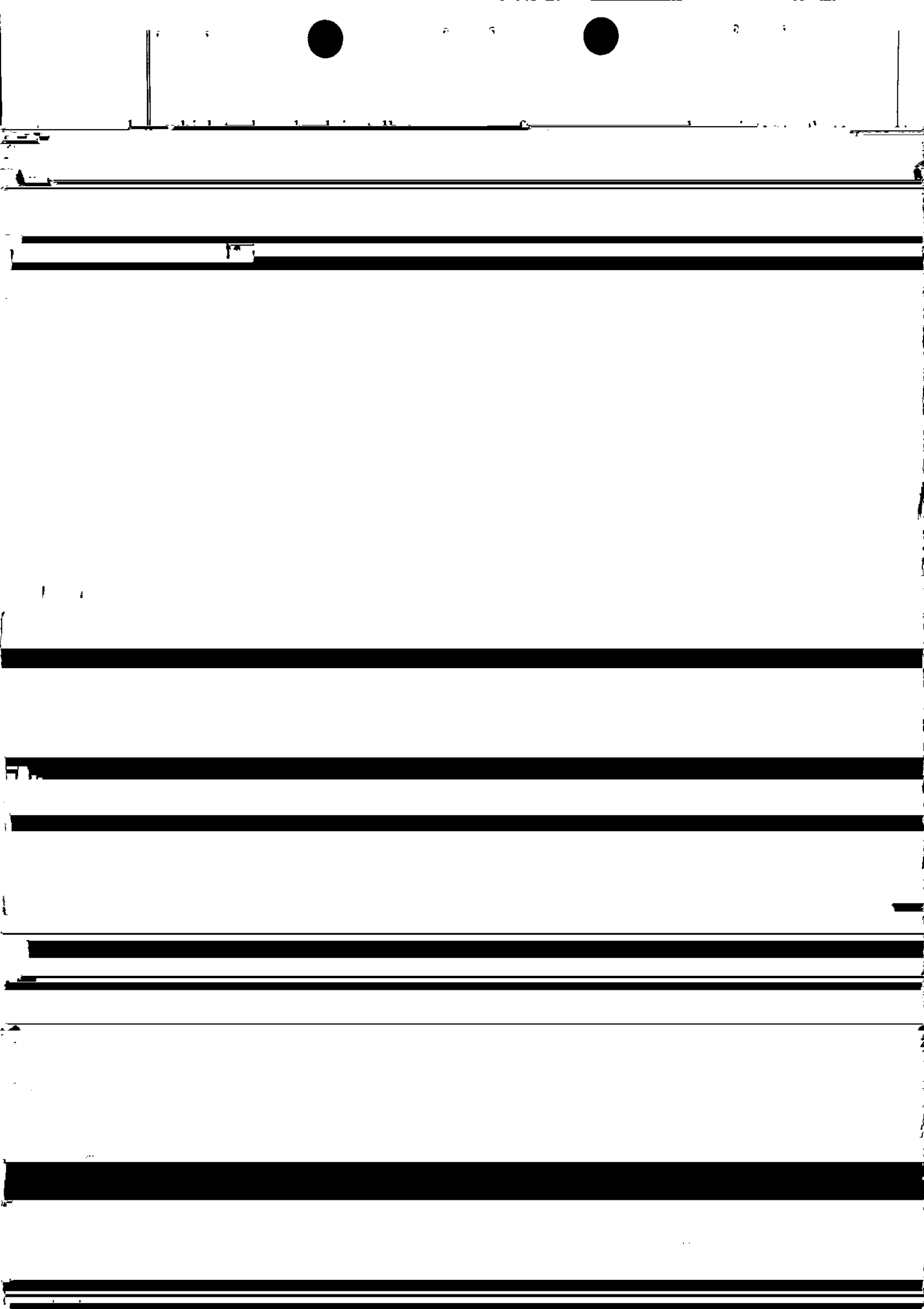
1 U.S.C. § 2412, concerning the prosecution of This action to the date of entry of this
2 Order.

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1 **“Assisting others”** means knowingly providing any of the following services
2 to any Person or entity: (a) developing, supplying, distributing, or publishing any
3 software program, code, script, or other content; or (b) performing advertising or
4 marketing services of any kind.

5 **“Clearly and prominently”** means:

6 (a) in textual communications (e.g., printed publications or words displayed
7 on the screen of a Covered product), the required disclosure must be a type size and



1 **“Person”** means a natural person, organization, or other legal entity,
2 including a corporation, partnership, proprietorship, association, cooperative,
3 government or governmental subdivision or agency, or any other group or
4 combination acting as an entity. A “consumer” is a Person under this definition.

5 **“Plaintiff”** means the Federal Trade Commission.

6 **“This action”** means FTC v. Digital Enterprises, Inc., et al., Case No. CV06-
7 4923 CAS (AJWx), filed August 8, 2006.

8 **“Uninstall”** means: (a) removing a software program from a Covered
9 product; (b) to the extent reasonably practical, removing all files, registry keys, and
10 components that were added to the Covered product when such software program

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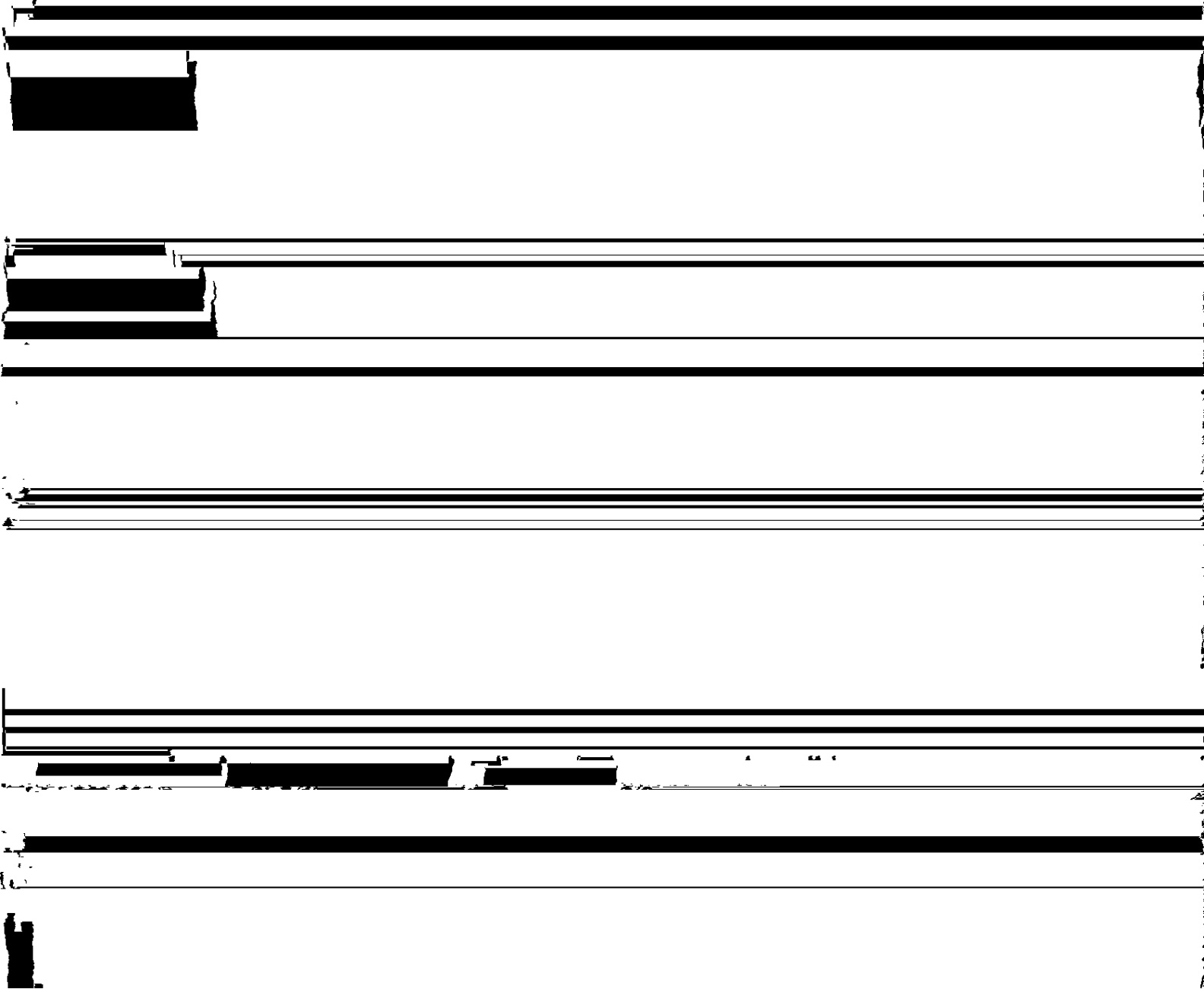
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consumer to cancel any recurring payment option and provides a customer service telephone number, the duration of time a consumer will have access to any downloaded content, and the fact that downloading the content or software onto a Covered product will make the Covered product part of a peer-to-peer network;

B. The user of the Covered product indicates assent to the downloading of the content or software by clicking on a button that (1) is not pre-selected as the default option; (2) clearly and unambiguously indicates



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B. Any misrepresentation that any goods or services are "Free," "Without

CL 3.63333-1 D. 3.63333-1 E. 3.63333-1

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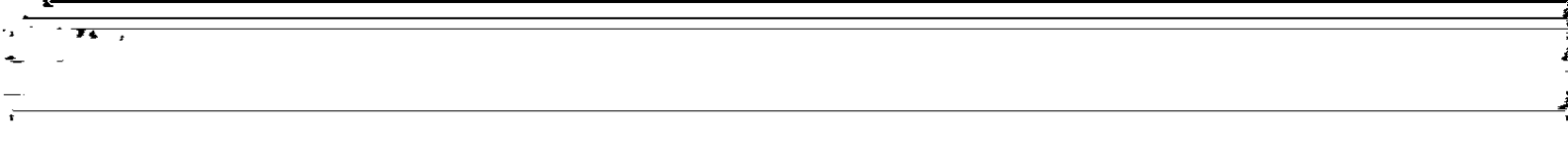
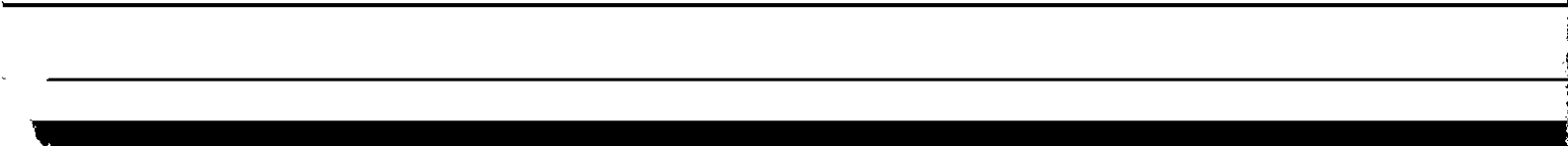
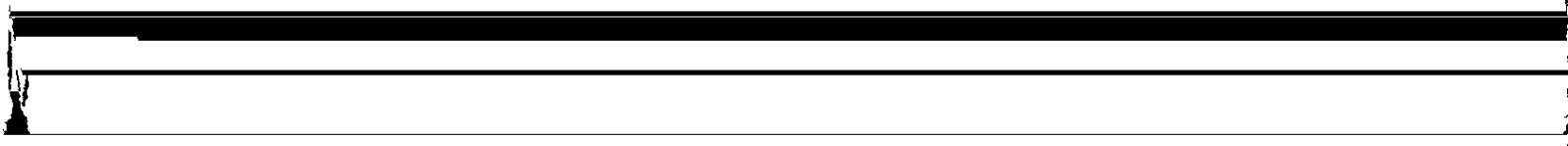
[REDACTED]

[REDACTED]

[REDACTED]

- 1 A. more than five times in any calendar day;
- 2 B. more often than once per hour;
- 3 C. that does not contain a clearly labeled button to close the pop-up and
- 4 silence any audio (including voice and music) that accompanied the
- 5 display of the pop-up; or
- 6 D. that does not provide a toll-free telephone number and email address
- 7 that will enable consumers to contact Defendants to inquire about the

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A. Obtaining contact information from any prospective Distribution

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_____ partner. In the case of a natural person, Defendants shall obtain the

MONETARY RELIEF

VIII.

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IN RE: [REDACTED]

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C. The Defendants relinquish all dominion, control, and title to the funds paid into the account established pursuant to this Order, and all legal and equitable title to the funds shall vest in the Treasurer of the United States unless and until such funds are disbursed to consumers. The

IX.

IT IS FURTHER ORDERED that:

A. The Commission's agreement to, and the Court's approval of, this Order is expressly premised upon the truthfulness, accuracy, and completeness of the financial information that Defendants submitted to the Commission, including the .pdf and .xls files that counsel for the Defendants emailed to the Commission on April 10 and 27, 2007, on May 2, 22, and 29, 2007, and on June 8, 2007, all of which the

1 such consumer in a recurring billing program offered and assented to in compliance
2 with this Order.

3 **XI.**

4 **IT IS FURTHER ORDERED** that, within five (5) days of the entry of this
5 Order, Defendants shall post on the movieland.com, moviepass.tv, and popcorn.net
6 websites instructions for Uninstalling from consumers' Covered products all

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

1. obtaining discovery from any Person, without further leave of court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45; or
2. posing as consumers and suppliers to Defendants, their employees, or any other entity managed or controlled in whole

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- A. For a period of five (5) years from the date of entry of this Order:
1. Each individual Defendant, Easton Herd and Andrew Garroni, within ten (10) business days of any such change shall notify the Commission of any of the following changes:
 - a. Any changes in the particular individual Defendant's residences, mailing addresses, or telephone numbers;

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business in the United States that Easton Herd or Andrew

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Garroni directly or indirectly controls, or has an ownership

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of each such employer or business, and his title and responsibilities for each such employer or business; and

c. Any other changes required to be reported under Subparagraph XIII.A above;

2. For all Defendants:

a. A copy of each acknowledgment of receipt of this Order, obtained by each Defendant pursuant to Subparagraph XV.D below; and

b. Any other changes required to be reported under Subparagraph XIII.A above;

C. For purposes of the compliance reporting required by this Order, the Commission is authorized to communicate directly with each of the Defendants, *provided that* the foregoing shall not preclude any

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of this Order by personal service or otherwise, whether acting directly or through

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web scripts or style sheets or other software files or code associated

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B. Individual Defendants Easton Herd or Andrew Garroni as Control Person: For any business that conducts business in the United States and that Easton Herd or Andrew Garroni controls directly or indirectly, or in which either of them has a majority ownership interest, the individual Defendant must deliver a copy of this Order to all principals, officers, directors, and managers of that business. The individual Defendant must also deliver copies of this Order to all employees, agents, and representatives of that business who engage in any conduct related to any of the subject matter of the Order. For current personnel, delivery shall be within five (5) business days of service of this Order upon the Defendants. For new personnel, delivery shall occur prior to their assuming their responsibilities.

C. Individual Defendant employees, agents, and representatives of that business

ACKNOWLEDGMENT OF RECEIPT OF ADDED BY DEFENDANTS?

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PROOF OF SERVICE

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I, Martha Delgado, declare:

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 555 South Flower Street, Forty-First Floor, Los Angeles, California 90071. On September 05, 2007, I served a copy of the within document(s).

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2007

FILED IN COUNTY OF LOS ANGELES, CALIFORNIA, ON SEPTEMBER 05, 2007, AT 10:00 AM. BY [REDACTED]

1 day with postage thereon fully prepaid in the ordinary course of business. I am aware that on