

IN THE UNITED STATES DISTRICT COURT

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

JOHN ZUCCARINI, individually and  
d/b/a Cuncake Party et al

Civil Action No. 2:01-cv-04854-BMS

Permanent Injunction. The Commission sought disgorgement of the revenues that Defendant Zuccarini obtained as a result of his contumacious activities.

The FTC and Defendant Zuccarini hereby stipulate to the entry of this Order ("Stipulated Order") finding John Zuccarini in Civil Contempt and modifying the Permanent Injunction and further agree and stipulate to the following:

**FINDINGS:**

1. This Court entered a valid Permanent Injunction against Defendant Zuccarini on April 9, 2002.

September 3, 2003 and had knowledge of its contents.

3. Defendant Zuccarini disobeyed the Permanent Injunction by engaging in activities that violated Sections I and V of the Permanent Injunction.

4. Defendant Zuccarini violated Section I (A) of the Permanent Injunction by

participating in affiliate marketing programs. Defendant Zuccarini shared revenues with several affiliate marketing companies in exchange for letting them place advertisements on web sites that he owned.

7. Defendant Zuccarini received a total of \$164,000.00

8. Defendant Zuccarini violated the notification provisions of Section V of the Permanent Injunction by failing to notify the Commission in writing within 30 days each time he

**IT IS THEREFORE ORDERED THAT:**

1. Judgment is entered in favor of the FTC against Defendant Zuccarini in the amount of \$164,000 to disgorge the monies received by Defendant Zuccarini as a result of his contumacious activities. The balance of this judgment shall be suspended upon payments as described in paragraphs 2(A) and 2(B).

2. Defendant Zuccarini relieves

Stipulated Order

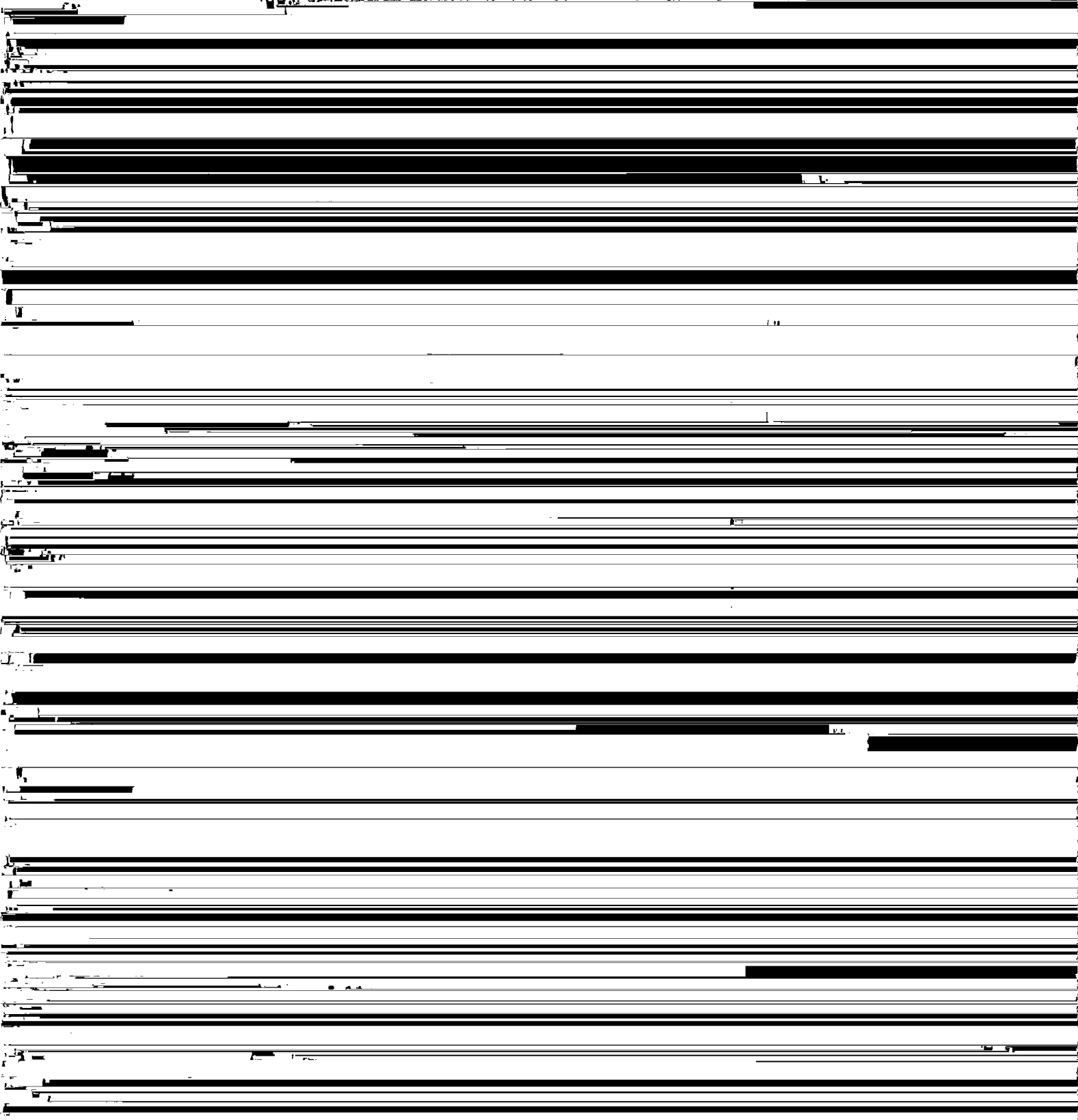
iii. Defendant shall provide to the Commission written proof of all transfers to the IRS pursuant to this Subsection A within five (5) business days of the date of any such transfers.

B. With respect to any receivables paid to Defendant arising out of the

contingent activities...

December 27, 2006 and January 29, 2007, and any addenda thereto  
(collectively "financial disclosures"), which Defendant Zuccarini  
stipulates are truthful, accurate, and complete. Defendant Zuccarini and

~~the Commission stipulated that the Commission~~



not be deemed or construed as a fine, penalty, or punitive assessment; and  
(2) this action and the relief awarded herein are in addition to, and not in  
lieu of, any other civil or criminal remedies that may be provided by law,  
including any other proceedings the Commission may initiate to enforce  
this Order.

3. The next page contains the text of the Order.

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

(B) In addition, the Commission is authorized to monitor compliance with the Permanent Injunction and Stipulated 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, 32, 34, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

(2) posing as consumers, Hosts or Hosting companies, and suppliers to Defendant, Defendant's employees or any other entity managed or

controlled in whole or in part by Defendant, without the necessity of identification or prior notice; and

(C) Defendant shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative agent or employee who has accessed



IV.  
COMPLIANCE REPORTING BY DEFENDANT

IT IS FURTHER ORDERED that, in order that compliance with the provisions of the Permanent Injunction and Stipulated Order may be monitored:

(A) For a period of five (5) years from the date of entry of this Stipulated Order:

(1) Defendant shall notify the Commission of the following:

(a) Any changes in residence, mailing addresses, and telephone numbers of Defendant, within ten (10) days of the date of such change;

(b) 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

performs services for; a statement of the nature of the business; and  
a statement of Defendant's duties and responsibilities in

name with any Domain Name Registrar. Such notification shall include:

- (i) the true identity of the domain name registrant;
  - (ii) his or her true and accurate mailing address, email address, and telephone number;
  - (iii) all registration information, including name(s), address(es), and email address(es) of the purported registrant, administrative contact, and billing contact listed on each registration; and
  - (iv) the name and address of the Domain Name Registrar; and
- (e) For the purposes of this Section, "employment" includes the performance of services as an employee, consultant or

~~independent contractor, and "employee" includes any individual who performs services for the defendant as an employee, consultant or independent contractor.~~

entity for whom Defendant performs services as an employee, consultant, or independent contractor.

- (2) Defendant shall notify the Commission of any changes in any business entity that Defendant directly or indirectly control(s), or has an ownership interest in, that may affect compliance obligations arising under the

days prior to such change, *provided that*, with respect to any proposed change in the business entity about which Defendant learns less than thirty (30) days prior to the date such action is to take place, Defendant shall notify the Commission as soon as it is aware of the proposed change.

(C) For the purposes of the Permanent Injunction and Stipulated Order, Defendant shall, unless otherwise directed by the Commission's authorized representatives, mail all written notifications to the Commission to:

Associate Director for Enforcement  
Federal Trade Commission  
600 Pennsylvania Avenue NW Suite NL 2122

Washington, DC 20580

(D) For purposes of the compliance reporting and monitoring required by the Permanent Injunction and Stipulated Order, the Commission is authorized to communicate directly with Defendant.

V.  
**RECORD KEEPING PROVISIONS**

**IT IS FURTHER ORDERED** that, for a period of eight (8) years from the date of entry of this Stipulated Order, Defendant, with regard to any business activities...

[REDACTED]

of each person employed in any capacity by such business, including as an independent contractor; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;

(C)

[REDACTED]

paid, quantity of items or services purchased, and description of items or services purchased, to the extent such information is obtained in the ordinary course of business;

copies of all contracts or agreements between Defendant and any sales company, mailhouse, printer, Internet service provider, information provider, telephone company, television or radio station, or other person through whom Defendant advertises or promotes goods or services, as



related to the subject matter of the Permanent Injunction and Stipulated Order, Defendant must deliver a copy of the Permanent Injunction and Stipulated Order to all principals and managers of such business before engaging in such conduct;

(C) If Defendant, acting in any capacity, receives goods or services from a Host or Hosting Company or Domain Name Registrar related to the subject matter of the Permanent Injunction and Stipulated Order, then Defendant shall provide a copy of the Permanent Injunction and Stipulated Order to a representative of such Host or Hosting Company or Domain Name

Registrar

(D) Defendant must secure a signed and dated statement acknowledging receipt of the Permanent Injunction and the Stipulated Order, within thirty days of delivery, from all persons receiving a copy of the Permanent Injunction and the Stipulated Order

and

(E) Defendant shall maintain for a period of eight (8) years after creation, and upon reasonable notice make available to representatives of the Commission the original signed and

dated acknowledgments of the receipt of such

VIII.

purposes of construction, modification, and enforcement of the Permanent Injunction and Stipulated Order.

IX.  
CLOSURE