

UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff,

v.

DIRECT SECURITY SERVICES, INC.; a
Kansas Corporation;
STEVEN DOCKERY, individually and as an
officer of Direct Security Services, Inc.;
GARY TIDBALL, individually and as an
officer of Direct Security Services, Inc.,

Defendants.

Case No.

**STIPULATED JUDGMENT AND
ORDER FOR PERMANENT
INJUNCTION**

Plaintiff, the United States of America, acting upon notification and authorization to the Attorney General by the Federal Trade Commission (“FTC” or the “Commission”), has commenced this action by filing the complaint herein, and Defendants Direct Security Services, Inc. (“DSSI”), Steven Dockery, and Gary Tidball (hereinafter “Defendants”) have waived service of the summons and complaint. The Defendants, represented by the attorney whose name appears hereafter, have agreed to settlement of this action without adjudication of any issue of fact or law, and without Defendants admitting liability for any of the violations alleged in the complaint.

THEREFORE, on the joint motion of the parties, it is hereby **ORDERED**,
ADJUDGED AND DECREED as follows:

FINDINGS

1. This Court has jurisdiction over the subject matter and the parties pursuant to 28 U.S.C. §§ 1331, 1337(a), 1345 and 1355, and 15 U.S.C. §§ 45(m)(1)(A), 53(b), 56(a), and 57b.
2. Venue is proper as to all parties in this District.
3. The activities of Defendants are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
4. The complaint states a claim upon which relief may be granted against Defendants, under Sections 5(a), 5(m)(1)(A), 13(b), and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a), 45(m)(1)(A), 53(b), and 57b.
5. Defendants have entered into this Stipulated Judgment and Order for Permanent Injunction (“Order”) freely and without coercion. Defendants further acknowledge that they have read the provisions of this Order and are prepared to abide by them.
6. Plaintiff and Defendants hereby waive all rights to appeal or otherwise challenge or contest the validity of this Order.
7. Defendants have agreed that this Order does not entitle Defendants to seek or to obtain attorneys’ fees as a prevailing party under the Equal Access to Justice Act, 28 U.S.C. § 2412, and Defendants further waive any rights to attorneys’ fees that may arise under said provision of law.
8. Entry of this Order is in the public interest.

previous sentence, the term “further solicitation” does not include providing the customer with information about, or attempting to sell, any other item included in the same catalog which prompted the customer’s call or in a substantially similar catalog.

11. “Outbound telephone call” means a telephone call initiated by a telemarketer to induce the purchase of goods or services or to solicit a charitable contribution.

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

ORDER

I. PROHIBITION AGAINST

fully and completely with all applicable requirements thereof, on and after the effective date of any such rules.

II. CIVIL PENALTY AND RIGHT TO REOPEN

IT IS FURTHER ORDERED that:

A. Judgment in the amount of \$80,000.00 (Eighty thousand dollars) is hereby entered against Defendant DSSI as a civil penalty, pursuant to Section 5(m)(1)(A) of the Federal Trade Commission Act, 15 U.S.C. § 45(m)(1)(A). Based upon information in Defendant DSSI's letter of November 22, 2005, to FTC counsel, and its sworn representations in its financial statements, full payment for the foregoing civil penalty is suspended except for Twenty-five Thousand Dollars (\$25,000.00), contingent upon the accuracy and completeness of the financial statements, as set forth in Subparagraphs C and D of this Paragraph.

B. Prior to or concurrently with its execution of this Order, Defendant DSSI shall transfer Twenty-five Thousand Dollars (\$25,000.00), as non-suspended civil penalty payment, to its attorney, who shall hold the entire sum for no purpose other than payment to the Treasurer of the United States after entry of this Order by the Court. Within five (5) days of receipt of notice of the entry of this Order, Defendant DSSI's attorney shall transfer such civil penalty payment in the form of a wire transfer or certified or cashier's check made payable to the Treasurer of the United States. The check or written confirmation of the wire transfer shall be delivered to: Director, Office of Consumer Litigation, U.S. Department of Justice Civil Division, P.O. Box 386, Washington, DC 20044. The cover letter accompanying the check shall include the title of this litigation and a reference to DJ# 102-3428.

C. Upon payment by Defendant's attorney as provided in Subparagraph B of this Paragraph, the remainder of the civil penalty judgment shall be suspended subject to the conditions set forth in Subparagraph D of this Paragraph.

D. Plaintiff's agreement to this Order is expressly premised upon the truthfulness, accuracy and completeness of Defendant DSSI's letter of November 22, 2005, and sworn financial statements signed and dated May 1, 2005, and February 23, 2006, and supporting documents submitted to the Commission, which include material information upon which Plaintiff relied in negotiating and agreeing to this Order. If, upon motion by Plaintiff, this Court finds that Defendant DSSI has failed to disclose any material asset or materially misstated the value of any asset in the financial statements and related documents described above, or has

III. DISTRIBUTION OF ORDER BY DEFENDANTS AND ACKNOWLEDGMENTS OF RECEIPT

IT IS FURTHER ORDERED that Defendants and their successors and assigns shall, within thirty (30) days of the entry of this Order, provide a copy of this Order, including Appendix A, to all of their owners, principals, members, officers, and directors, as well as managers, agents, servants, employees, and attorneys having decision-making authority with respect to the subject matter of this Order; secure from each such person a signed statement acknowledging receipt of a copy of this Order; and, within ten (10) days of complying with this Paragraph, file an affidavit with the Court and serve the Commission, by mailing a copy thereof, to Associate Director of Enforcement, Fede

Washington, DC 20001, within thirty (30) days of his affiliation with a new business or employment whose activities include telemarketing or his affiliation with a new business or employment in which his duties involve the sale or offering for sale of security alarm goods or services.

VI. COMMUNICATION WITH DEFENDANTS

IT IS FURTHER ORDERED that for the purposes of compliance reporting, if undersigned counsel no longer represents Defendants, Plaintiff and the Commission are authorized to communicate directly with Defendants.

VII. RECORD KEEPING PROVISIONS

IT IS FURTHER ORDERED that for a period of five (5) years from the date of entry of this Order, Defendants, and their successors and assigns, shall maintain and make available to the Plaintiff or Commission, within seven (7) days of the receipt of a written request, business records demonstrating compliance with the terms and provisions of this Order.

VIII. FEES AND COSTS

IT IS FURTHER ORDERED that each party to this Order hereby agrees to bear its own costs and attorneys' fees incurred in connection with this action.

IX. SEVERABILITY

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.

X. RETENTION OF JURISDICTION

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

XI. COMPLETE SETTLEMENT

The parties, by their respective counsel, hereby consent to entry of the foregoing Order which shall constitute a final judgment and order in this matter. The parties further stipulate and agree that the entry of the foregoing Order shall constitute a full, complete and final settlement of this action.

JUDGMENT IS THEREFORE ENTERED in favor of Plaintiff and against Defendants, pursuant to all the terms and conditions recited above.

SO ORDERED this ____ day of _____, 2007.

UNITED STATES DISTRICT JUDGE

FOR THE PLAINTIFF:
FOR THE UNITED STATES OF AMERICA

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Assistant Attorney General
Civil Division
U.S. DEPARTMENT OF JUSTICE

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FOR THE FEDERAL TRADE COMMISSION:

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FOR DEFENDANTS:

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