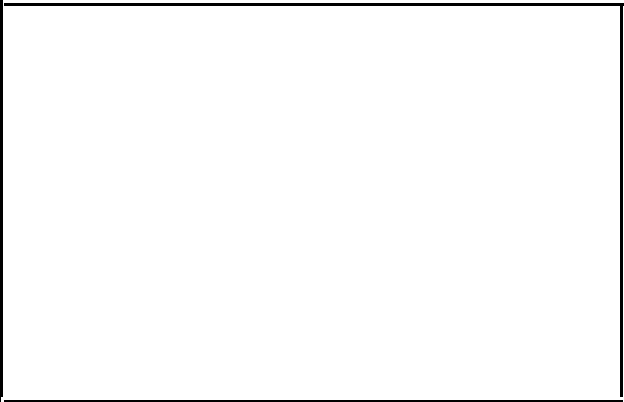


1 PETER D. KEISLER
Assistant Attorney General

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3 EUGENE M. THIROLF
Director,

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1 5. Defendant has entered into this Stipulated Final Judgment
2 For Civil Penalties And Permanent Injunctive Relief ("Order")
3 freely and without coercion.

4 6. Defendant hereby waives all rights to appeal or otherwise
5 challenge or contest the validity of this Order.

6 7. Defendant agrees that this Order does not entitle Defendant
7 to seek or to obtain attorneys' fees as a prevailing party under
8 the Equal Access to Justice Act, 28 U.S.C. § 2412, and Defendant
9 further waives any rights to attorneys' fees that may arise under
10 said provision of law.

11 8. Entry of this Order is in the public interest.

12 **DEFINITIONS**

13 For the purpose of this Order, the following definitions
14 shall apply:

15 1. "Commercial electronic mail ('email') message" means
16 any email message the primary purpose of which is the commercial
17 advertisement or promotion of a commercial product or service
18 (including content on an Internet website operated for a
19 commercial purpose) and that further satisfies the requirements
20 of 16 C.F.R. §§ 316.1 - 316.5, as they exist now and may be
21 amended.

22 2. Unless otherwise specified, "Defendant" means
23 Adteractive, Inc., d/b/a FreeGiftWorld.com and
24 SamplePromotionsGroup.com, and its successors, assigns,
25 affiliates, or subsidiaries.

26 3. "Document" is synonymous in meaning and equal in scope
27 to the usage of the term in Federal Rule of Civil Procedure

1 34(a), and includes writings, drawings, graphs, charts,
2 photographs, audio and video recordings, computer records, and
3 other data compilations from which information can be obtained
4 and translated, if necessary, into reasonably usable form through
5 detection devices. A draft or non-identical copy is a separate
6 document within the meaning of the term.

7 4. "Electronic mail ('email') address" means a
8 destination, commonly expressed as a string of characters,
9 consisting of a unique user name or mailbox (commonly referred to
10 as the "local part") and a reference to an Internet domain
11 (commonly referred to as the "domain part"), whether or not
12 displayed, to which an email message can be sent or delivered.

13 5. "Electronic mail ('email') message" means a message
14 sent to a unique email address.

15 6. "Initiate," when used with respect to a commercial
16 email message, means to originate or transmit such message or to
17 procure the origination or transmission of such message, but
18 shall not include actions that constitute routine conveyance of
19 such message. For purposes of this Order, more than one person
20 may be considered to have initiated a message.

21 7. "Landing page" means, in online marketing, a specific
22 web page that a visitor reaches after clicking a link or
23 advertisement in an email or banner ad. This page usually
24 showcases content that is an extension of the link or ad.

25 8. "Person" means a natural person or a corporation,
26 partnership, proprietorship, limited liability company, or other
27 organization or legal entity, including an association,

1 cooperative, or agency, or other group or combination acting as
2 an entity.

3 9. "Procure," when used with respect to the initiation of
4 a commercial email message, means intentionally to pay or provide
5 other consideration to, or induce, another person to initiate
6 such a message on one's behalf.

7 10. "Recipient," when used with respect to a commercial
8 email message, means an authorized user of the email address to
9 which the message was sent or delivered. If a recipient of a
10 commercial email message has one or more email addresses in
11 addition to the address to which the message was sent or
12 delivered, the recipient shall be treated as a separate recipient
13 with respect to each such address. If an email address is
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1 A. In any email and online advertisement, and on any
2 landing page associated with such email or online advertisement,
3 that contains any direct or implied representation made by
4 Defendant, or made by any authorized agent on behalf of
5 Defendant, that a gift or award is free, failing to disclose, in
6 the same color, font, and size, and within close proximity to
7 such representation that a purchase is required, or that
8 purchases are required, to obtain such gift or award, when such
9 is the case;

10 B. On any landing page associated with any direct or
11 implied representation made by Defendant, or made by any
12 authorized agent on behalf of Defendant, that a gift or award is
13 free, failing to disclose, in a clear and conspicuous manner:

14 1. A list of the monetary obligations a consumer is
15 likely to incur to obtain the advertised gift or
16 award;

17 2. A list of any non-monetary obligations a consumer
18 is likely to incur to obtain the advertised gift
19 or award, such as having to apply and qualify for
20 credit cards or an automobile loan.

21 **II. PROHIBITION AGAINST VIOLATING THE CAN-SPAM ACT**

22 IT IS FURTHER ORDERED that Defendant, its successors,
23 assigns, officers, agents, servants, and employees, and those
24 persons in active concert or participation with it who receive
25 actual notice of this Order by personal service or otherwise are
26 hereby permanently restrained and enjoined from violating the
27 CAN-SPAM Act, 15 U.S.C. §§ 7701 *et seq.*, attached hereto as

1 Attachment A, and as it may be amended, by, including, but not
2 limited to, initiating the transmission of a commercial email
3 message that misrepresents the content or subject matter of the
4 message.

5 **III. CIVIL PENALTIES**
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deposition; and/or provide entry during normal busi6<</,5l busi6<</,5lurs t

1 or affecting commerce (within the meaning of 15 U.S.C.
2 § 45(a)(1)).

3 **V. COMPLIANCE REPORTING BY DEFENDANT**

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

6 A. For a period of five (5) years from the date of entry
7 of this Order, Defendant shall notify the Commission of any
8 changes in corporate structure that may affect compliance
9 obligations arising under this Order, including but not limited
10 to a dissolution, assignment, sale, merger, or other action that
11 would result in the emergence of a successor entity; the creation
12 or dissolution of a subsidiary, parent, or affiliate that engages
13 in any acts or practices subject to this Order; the filing of a
14 bankruptcy petition; or a change in the corporate name or
15 address, at least thirty (30) days prior to such change, *provided*
16 that, with respect to any proposed change in the corporation
17 about which Defendant learns less than thirty (30) days prior to
18 the date such action is to take place, Defendant shall notify the
19 Commission as soon as is practicable after obtaining such
20 knowledge;

21 B. One hundred eighty (180) days after the date of entry
22 of this Order, Defendant shall provide a written report to the
23 FTC, sworn to under penalty of perjury, setting forth in detail
24 the manner and form in which it has complied and is complying
25 with this Order. This report shall include, but not be limited
26 to:

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1 request, if any; (3) the basis of the complaint or request if
2 known; (4) the nature and result of any investigation conducted
3 concerning the complaint or request; (5) each response and the
4 date of such response to the complaint or request; (6) any final
5 resolution of the complaint or request, and the date of such
6 resolution; and (7) in the event of a denial of any resolution,
7 the reason for the denial;

8 E. Copies of all sales scripts, training materials,
9 advertisements, or other marketing materials;

10 F. Records demonstrating reasonable policies and
11 procedures to process and handle customer inquiries and
12 complaints; and

13 G. All records and documents necessary to demonstrate full
14 compliance with each provision of this Order, including but not
15 limited to, copies of acknowledgments of receipt of this Order
16 required by Part VII.B, and all reports submitted to the FTC
17 pursuant to Part V of this Order.

18 **VII. DISTRIBUTION OF ORDER BY DEFENDANT**

19 IT IS FURTHER ORDERED that, for a period of five (5) years
20 from the date of entry of this Order, Defendant shall deliver
21 copies of this Order as directed below:

22 A. Defendant must deliver a copy of this Order to all its
23 principals, officers, directors, and managers. Defendant must
24 also deliver copies of this Order, or summaries of this Order, to
25 all its employees, agents, and representatives who engage in
26 conduct related to the subject matter of this Order. For current
27 personnel, delivery shall be within ten (10) days of service of
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1 this Order upon Defendant. For new personnel, delivery shall
2 occur prior to them assuming their responsibilities; and

3 B. Defendant must secure a signed and dated statement
4 acknowledging receipt of this Order, within thirty (30) days of
5 delivery, from all persons receiving a copy of this Order
6 pursuant to this Part.

7 **VIII. ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANT**

8 IT IS FURTHER ORDERED that Defendant, within five (5)
9 business days of receipt of this Order as entered by the Court,
10 must submit to the Commission a truthful sworn statement
11 acknowledging receipt of this Order.

12 **IX. FEES AND COSTS**

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

16 **X. SEVERABILITY**

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

21 **XI. RETENTION OF JURISDICTION**

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

25 **XII. COMPLETE SETTLEMENT**

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

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28 Stip. Final Judgment
CV-07-5940

1 FOR THE PLAINTIFF:

2 UNITED STATES OF AMERICA:

3 PETER D. KEISLER
Assistant Attorney General
4 Civil Division
U.S. Department of Justice

5
6 EUGENE M. THIROLF
Director,
KENNETH L. JOST
7 Deputy Director,
Office of Consumer Litigation

8
9 /s/
JOHN W. BURKE (VA BAR NO. 72780)
Trial Attorney
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U.S. Department of Justice
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Washington, D.C. 20044
12 PHONE: 202-353-2001
FAX: 202-514-8742
13 EMAIL: Josh.Burke@usdoj.gov

14 FOR THE FEDERAL TRADE COMMISSION

15
16 /s/
LOIS C. GREISMAN
Associate Director for Marketing Practices

17
18 /s/
STEPHEN L. COHEN
Ethan Arenson
19 Attorneys, Federal Trade Commission
600 Pennsylvania Ave., N.W.
20 Washington, D.C. 20580

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28 Stip. Final Judgment
CV-07-5940

1 FOR THE DEFENDANT:

2 _____
/s/
D. Reed Freeman, Jr.

3 ~~Page 16 of 16~~ Collier Shannonllier Shy0.6 -0.98 050 K St., NW, Suite 8000Shy0.

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