

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

FILED IN CLERK'S OFFICE  
U.S.D.C. Atlanta  
DEC 13 2007  
JAMES [Signature]

\_\_\_\_\_)  
**FEDERAL TRADE COMMISSION**\_\_\_\_\_)

Civil Action No. 06-CV-1692

\_\_\_\_\_)  
Plaintiff, \_\_\_\_\_)  
v. \_\_\_\_\_)  
**Prophet 3H, Inc., et al.** \_\_\_\_\_)  
Defendants \_\_\_\_\_)  
\_\_\_\_\_)

~~PROPOSED~~  
**STIPULATED JUDGMENT  
AND ORDER FOR  
PERMANENT  
INJUNCTION AS TO  
DEFENDANT  
VICTOR MCLAIN**

This matter comes before the Court on a stipulation of Plaintiff Federal

Trade Commission ("Commission" or "FTC") and Defendant Victor McLain

("Defendant")

Part 436, in the marketing and sale of a business opportunity to become an affiliate

in a healthcare network and a provider of healthcare services. On July 18, 2006 - the same day the Complaint was filed - the Court issued a Temporary Restraining Order ("TRO") (Doc. 7) with an asset freeze, appointment of a Receiver, and other ancillary equitable relief. On August 2, 2006, upon stipulation of the parties, the Court entered an Extended TRO (Doc. 21). In addition to confirming the relief in

IT IS THEREFORE STIPULATED, AGREED, AND ORDERED AS

follows:

1. This Court has jurisdiction of the subject matter of this case and jurisdiction over the Defendant.
2. Venue in this District is proper under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b).
3. The activities of Defendant are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
4. The Complaint and Amended Complaint state a claim upon which relief might be granted against Defendant under Sections 5(a), 13(b), and 19 of the FTC Act, 15 U.S.C. §§ 45(a), 52, 53(b), and 57b, and the Franchise Rule, 16 C.F.R. Part 436.
5. Defendant has entered into this Final Order freely and without coercion. Defendant further acknowledges that he has read the provisions of this Final Order and is prepared to abide by them.
6. The Plaintiff and Defendant have agreed that the entry of this Final Order resolves all matters of dispute between them arising from the Complaint and Amended Complaint in this action, up to the date of entry of this Final Order.

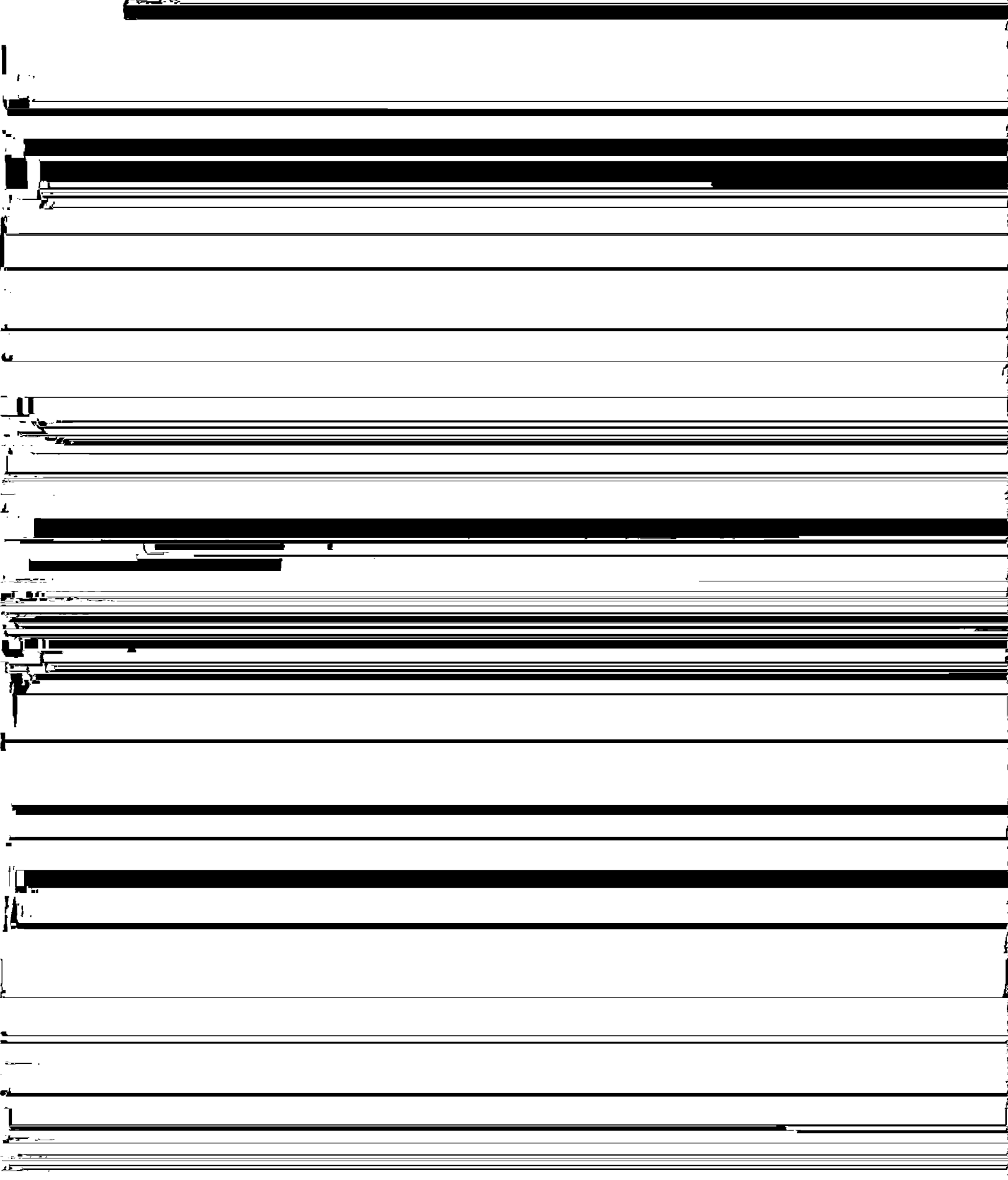
7. Defendant waives all rights to seek appellate review or otherwise

release any claim he may have against the Commission, its employees

representatives, or agents.

8. Defendant agrees that this Final Order does not entitle Defendant to seek or to obtain attorneys' fees as a prevailing party under the Equal Access to

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...right to sue for the sale or distribution of goods or services

...regardless of whether identified by a trademark owner

8. "Food" and "drug" shall mean "food" and "drug" as defined in Section 15 of the FTC Act, 15 U.S.C. § 55;
9. "Franchise Rule" means the FTC Trade Regulation Rule titled "Disclosure Requirements and Prohibitions Concerning Franchising" codified at 16 C.F.R. Part 436, or as it may be amended;
10. "Healthcare business venture" shall mean any business venture involving the sale or provision of goods or services for which a health benefit is claimed, or whose profits directly or indirectly rely upon the provision of health-related goods or services. Health-related goods or services include, but are not limited to, drugs, dietary supplements, and the provision and management of home health care services, nursing home care services, assisted living services, nurse staffing services, medical billing services, medical record management services, health care consulting services, health care client solicitation services, and services reimbursable through Federal or state Medicaid programs;

Certification Institute, Inc.; M7 Holdings, LLC; and any affiliates, fictitious names, d/b/a's, subsidiaries, successors, or assigns of the aforementioned entities;

13. "Receiver" shall mean Kevin O'Halloran and Newbridge

Receivership Defendants:

14. "Receivership Defendants" shall mean the Corporate Defendants; and

15. "Receivership Estate" shall mean all monies and property of any kind



implication, to any prospective purchaser of a business venture or healthcare business venture, including, but not limited to, the following:

A. That the Defendant's healthcare business ventures do not violate

[REDACTED]

That persons who purchase business systems will receive

[REDACTED]

[REDACTED]

[REDACTED]

significant assistance in the operation of their business, including, but not limited

to:

1. Legal and technical assistance, including mentoring, with the

formation, development, and operation of purchasers' business

**B. Failing to provide each prospective franchisee or business opportunity**

purchaser with complete and accurate documentation for any earnings or financial performance representations, as required by the Franchise Rule or Business Opportunity Rule;

**C. Failing to have a reasonable basis for any earnings or financial**

B. The Defendant relinquishes all right and control over all assets in the

possession of the Receiver and all such assets that the Receiver may obtain

subject to any powers granted to the Receiver by Order of this Court

C. The Commission's agreement to this Final Order is expressly

premised upon the financial condition of the Individual Defendant as represented

which shall be used for purposes of collecting and reporting on any delinquent amount arising out of Defendant's relationship with the government.

E. The Defendant is further required, unless he has done so already, to provide the Commission with clear, legible and full size photocopies of all valid

driver's licenses he possesses, which will be used for reporting and compliance purposes.

F. The Defendant agrees that the facts alleged in the Complaint and

Treasury as disgorgement. Defendant shall have no right to challenge the

**V. LIFTING OF THE ASSET FREEZE**

~~IT IS FURTHER ORDERED~~ that

The freeze of the Defendant's assets set forth in the Preliminary Injunction Order, entered by this Court on September 13, 2006, shall be lifted with respect to the Defendant.

**VI. ACKNOWLEDGMENT OF RECEIPT OF ORDER**

~~IT IS FURTHER ORDERED~~

provisions of Sections "I" through "II" of this Order involving the marketing of business ventures. For current personnel, delivery shall be within (5) days of service of this Order upon the Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities.

**P** For any business where the Defendant is not a principal officer

ownership of the Defendant in any business entity, within

~~\_\_\_\_ (10) \_\_\_\_\_~~

shall include the name and address of each business that the Defendant is affiliated with, employed by, creates or forms, or performs services for; a statement of the nature

~~\_\_\_\_ (10) \_\_\_\_\_~~



**B. One hundred eighty days after the date of entry of this Order, the**

**Defendant shall provide a written report to the FTC, sworn to under penalty of**

**and are complying with this Order. This report shall include, but not be limited to:**

- 1. The then-current residence address, mailing addresses, and telephone numbers of the Defendant;**
- 2. The then-current employment and business addresses and**

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

### IX. COMPLIANCE MONITORING

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

REDACTED

or employee who has agreed to such an interview, relating in any way to any conduct subject to this Order. The person interviewed may have counsel present.

lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

**Y RECORD-KEEPING PROVISIONS**

times which the person accompanied work; and the date and reason for the person's

termination, if applicable;

C. Customer files containing the names, addresses, phone numbers, dollar amounts 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;

D. Copies of any complaints and refund requests (whether received directly, indirectly or through any third party) and any responses to those complaints or requests;

E. Copies of any sales scripts, training materials, advertisements, or other marketing materials, including e-mail and Internet websites or web pages, regarding any good, service, company or web site, which are disseminated by Defendant to any person; and

F. All records and documents necessary to demonstrate fully their compliance with each provision of this Order, including, but not limited to, copies

mail address, or other identifying information of any person who paid any money to any Defendant, at any time prior to July 18, 2006, in connection with the advertising, promotion, marketing, offering for sale, or sale of any good or service; provided, however, that the Defendant may disclose such identifying information

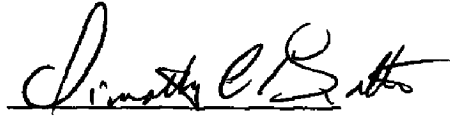
for law enforcement purposes, as required by any law, regulation, or court order

**XII. COOPERATION WITH RECEIVER**

**IT IS FURTHER ORDERED** that Defendant shall cooperate fully with

the Receiver in (A) pursuing and/or all claims by the receivership against third

SO ORDERED, this 13th day of December, 2007



Timothy C. Batten, Sr.

**FOR THE PLAINTIFF:**

William Blumenthal  
General Counsel



**FOR THE DEFENDANT:**

