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● CHANGES HAVE BEEN
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1 Plaintiff, the Federal Trade Commission, having commenced this action by
2 filing the Complaint herein; Defendants Tono Records, dba Tono Music and
3 Professional Legal Services; Tono Publishing; and Promo Music (hereinafter the
4 “Defendant Corporations”), having been served with the Summons and
5 Complaint; the Defendant Corporations having not appeared in this matter, having
6 not filed an answer and being not represented by counsel; the Clerk of the Court
7 having entered defaults against each of the defendant corporations; and it
8 appearing that it is appropriate that judgment by default be entered against each of
9 the Defendant Corporations,

10 This Court hereby enters this Final Judgment and Order for Permanent
11 Injunction against Tono Records, dba Tono Music and Professional Legal
12 Services; Tono Publishing; and Promo Music.

13 **FINDINGS**

14 1. This Court has jurisdiction of the subject matter and of the parties.

15 2. The Complaint states a claim upon which relief may be granted
16 against the Defendant Corporations under Sections 5(a), 5(m)(1)(A), 13(b), and
17 16(a) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a),
18 45(m)(1)(A), 53b, and 56(a), and Section 814 of the Fair Debt Collection Practices
19 Act (“FDCPA”), 15 U.S.C. §1692l.

20 3. Venue in this district is proper under 28 U.S.C. §§ 1391 (b-c) and
21 1395(a) and 15 U.S.C. § 53(b).

22 4. The activities of the Defendant Corporations are in or affecting
23 commerce as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

24 5. The Defendant Corporations have engaged in the conduct alleged in
25 Counts One through Five of the Complaint.

26 6. The Defendant Corporations’ practices constitute deceptive acts and
27 practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

28 7. The Defendant Corporations are “debt collectors” as that term is

1 defined in Section 803(6) of the FDCPA, 15 U.S.C. § 1692a(6).

2 8. The Defendant Corporations' practices constitute violations of the
3 FDCPA, 15 U.S.C. § 1692 *et seq.*

4 9. The Defendant Corporations' conduct has resulted in substantial
5 injury to consumers who were induced by deceptive conduct or coercive means to
6 pay alleged debts that they did not owe.

7 10. The Defendant Corporations' violations of law are likely to continue
8 in the absence of permanent injunctive relief.

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1 sentence inclusive rather than exclusive.

2 G. The definitions set forth in the FDCPA, 15 U.S.C. § 1692a, shall
3 apply.

4 **I. INJUNCTION**

5 Defendants Tono Records, Inc., dba Tono Music and Professional Legal
6 Services; Tono Publishing, Inc.; and Promo Music, Inc., and their officers, agents,
7 servants, employees, and all other persons or entities in active concert or
8 participation with them who receive actual notice of this Decree by personal
9 service or otherwise, whether acting directly or through any business entity,
10 corporation, subsidiary, division, affiliate, or other device, are hereby permanently
11 restrained and enjoined from taking the following actions:

12 **VIOLATING THE FTC ACT**

13 A. Misrepresenting to consumers, expressly or by implication, that:

- 14 1. The alleged obligation that Defendants are attempting to collect
15 is a valid debt;
- 16 2. Defendants are an attorney or are working on behalf of an
17 attorney;
- 18 3. Defendants will take any action that cannot legally be taken or
19 that Defendants do not intend to take, such as filing a lawsuit;
20 and
- 21 4. Nonpayment of an alleged obligation will result in a
22 consumer's arrest or imprisonment, or lead to seizure,
23 garnishment, or attachment of a consumer's property or wages;

24 B. Making a misrepresentation, expressly or by implication, about the
25 consequences of paying or not paying a debt, in whole or in part;

26 C. Making any material misrepresentation, expressly or by
27 implication, to collect or to attempt to collect a debt;

28 D. Misrepresenting, directly, indirectly, expressly, or by implication,

1 or omitting, any fact material to a person's decision to purchase or use any
2 product, program, or service;

3 **VIOLATING THE FDCPA**

4 E. Using any false, deceptive, or misleading representations or
5 means in connection with the collection of any debt, in violation of Section 807 of
6 the FDCPA, 15 U.S.C. § 1692e, including, but not limited to:

- 7 1. Misrepresenting the character, amount, or legal status of a debt,
8 in violation of Section 807(2)(A) of the FDCPA, 15 U.S.C. §
9 1692e(2)(A);
- 10 2. Representing or implying that collectors are attorneys or
11 representatives of an attorney or that a communication is from
12 an attorney, in violation of Section 807(3) of the FDCPA, 15
13 U.S.C. § 1692e(3);
- 14 3. Representing or implying that nonpayment of a debt will result
15 in the arrest or imprisonment of any person or the seizure,
16 garnishment, attachment, or sale of any property or wages of
17 any person, unless at the time of the representation, such action
18 is lawful and Defendants intend to take such action, in violation
19 of Section 807(4) of the FDCPA, 15 U.S.C. § 1692e(4);
- 20 4. Representing or implying that any action will be taken, unless
21 at the time of the representation such action is lawful and
22 Defendants intend to take such action, or that any action may
23 be taken when Defendants cannot show that, at the time of the
24 representation, there is a reasonable likelihood that such action
25 will be taken, in violation of Section 807(5) of the FDCPA, 15
26 U.S.C. § 1692e(5); and
- 27 5. Using a business name other than the collector's real name, in
28 violation of Section 807(14) of the FDCPA, 15 U.S.C.

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1 C. Defendants Tono Records, Tono Publishing, and Promo Music, as
2 well as their successors and assigns, and their officers, agents, servants,
3 employees, and all other persons or entities in active concert or participation with
4 any of them who receive actual notice of this Decree by personal service or
5 otherwise, whether acting directly or through any business entity, corporation,
6 subsidiary, division, affiliate, or other device, in connection with acting as a “debt
7 collector” in the collection of a “debt” from a “consumer,” as those terms are
8 defined in Section 803(6), (5), and (3), respectively, of the FDCPA, 15 U.S.C.
9 § 1692a(6), (5), and (3), shall provide a copy of the following notice to all officers,
10 servants, agents, and employees having responsibility with respect to the
11 collection of debts, within thirty (30) days of the date of entry of this Decree, and
12 to each employee hired for a period of five (5) years after that date, no later than
13 the time the employee assumes responsibility with respect to the collection of such
14 debts, and shall secure from each such person, within thirty (30) days of delivery,
15 a signed and dated statement acknowledging receipt of a copy of the notice:

16 Debt collectors must comply with the
17 federal Fair Debt Collection Practices Act,
18 which limits your activities in trying to
19 collect money from consumers

20 Section 806 of the Act states that you may
21 not engage in any conduct the natural
22 consequence of which is to harass, oppress,
23 or abuse any person in connection with the
24 collection of a debt.

25 Section 807 of the Act prohibits you from
26 representing or implying that any action,
27 including legal action, will be taken unless,
28 at the time of the representation, such action
is lawful and there is a clear intent to take
the action. Further, Section 807 of the Act

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1 change, *provided* that, with respect to any proposed change in the corporation
2 about which the Defendants learn less than thirty (30) days prior to the date such
3 action is to take place, the Defendant Corporations shall notify the Commission as
4 soon as is practicable after obtaining such knowledge.

5 B. One hundred and eighty (180) days after the date of entry of this
6 Decree, Defendants Tono Records, Tono Publishing, and Promo Music each shall
7 provide a written report to the FTC, sworn to under penalty of perjury, setting
8 forth in detail the manner and form in which they have complied and are
9 complying with this Order. This report shall include, but not be limited to:

- 10 1. The then-current residence address, mailing addresses, and
11 telephone numbers of such Defendant Corporation;
- 12 2. Any other changes required to be reported under Subparagraph
13 A of this Part.

14 C. For the purposes of this Order, Defendants shall, unless otherwise
15 directed by the Commission's authorized representatives, mail all written
16 notifications to the Commission to:

17 Associate Director for Enforcement
18 Federal Trade Commission
19 600 Pennsylvania Avenue, N.W.
20 Washington, DC 20580.
21 Attn: *FTC v. Tono Records, et al.*, Civ. No. 07-3786-
22 JFW (C.D. Cal.).

23 **VI. COMPLIANCE MONITORING**

24 For the purpose of monitoring and investigating compliance with any
25 provision of this Decree:

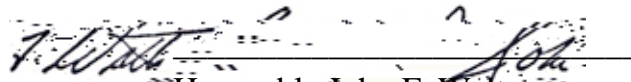
26 A. Within ten (10) days of receipt of written notice from a representative
27 of the Commission, Defendants Tono Records, Tono Publishing, and Promo
28 Music each shall submit additional written reports, sworn to under penalty of

1 ~~IX. RETENTION OF JURISDICTION~~ (paragraph stricken by court) JFW

2 ——— This Court shall retain jurisdiction of this matter for purposes of ——— construction,
3 modification, and enforcement of this Decree.

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

6
7 DATED: May 27, 2008


8 Honorable John E. Walter
9 U.S. District Court Judge