

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FEDERAL TRADE COMMISSION,)

Plaintiff,)

v.)

SPEAR SYSTEMS, INC., a Wyoming corporation;)

BRUCE PARKER, individually, and as an officer)

LISA KIMSEY, individually, and as an officer)
of Spear Systems, Inc.;)

XAVIER RATELLE, individually, doing)
business as eHealthyLife.com, and as an officer)
or director of 9151-1154 Quebec, Inc., 9064-)
9252 Quebec, Inc., and HBE, Inc.;)

ABARAGIDAN GNANENDRAN, individually,)
and doing business as eHealthyLife.com;)

9151-1154 QUEBEC, INC. d/b/a Q WEB,)
a Quebec corporation;)

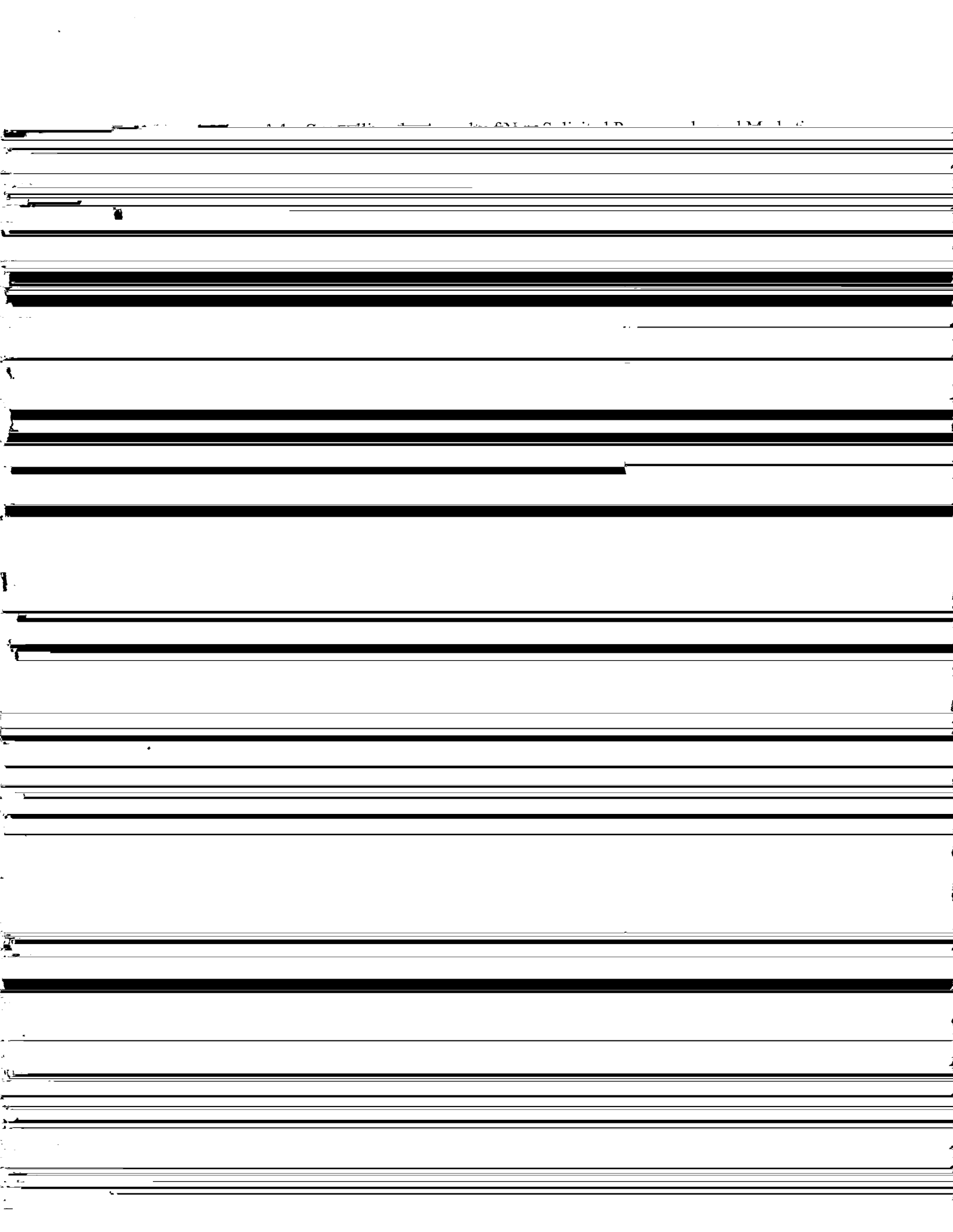
9064-9252 QUEBEC, INC., a Quebec corporation;)
and)

HBE, INC., a St. Kitts and Nevis corporation,)

Case No. 07 C 5597

Judge Wayne R. Andersen

Magistrate Judge Michael T. Mason



4. This action was instituted by the FTC under Sections 5, 12, 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 45, 52, 53(b), and 57b and CAN-SPAM, 15 U.S.C. § 7706(a). The Commission seeks permanent injunctive relief and monetary and other equitable relief for deceptive acts or practices by Defendants in connection with the sale of hoodia gordonii and

- (A) cause rapid and substantial weight loss, including as much as twenty-five pounds in a month;
- (B) cause users to lose safely three or more pounds per week for multiple weeks; and
- (C) cause permanent weight loss.

10. The Court further finds that, in connection with the advertising, marketing, and sale of HGH products, Defendants violated Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, by falsely representing, expressly or by implication, that the HGH products:

- (A) contain human growth hormone and/or cause a clinically meaningful

_____ ~~_____~~ _____

- (B) will turn back or reverse the aging process, including but not limited to

13. The Court further finds that Defendants have initiated the transmission, to protected computers, of commercial e-mail messages that fail to provide:

(A) ~~clear and conspicuous notice of the recipient's opportunity to decline to~~

receive further commercial electronic mail messages from the sender;

and/or

(B) a functioning return e-mail address or other internet-based mechanism,

~~clearly and conspicuously displayed~~ that a recipient could use to submit a

The Court further finds that Defendant Ratelle is the sole officer of Defendants

9151-1154 Quebec, Inc., 9064-9252 Quebec, Inc., and HBE, Inc. He has participated directly in

20. Entry of this Order is in the public interest.

DEFINITIONS

1. **“Commercial electronic mail message”** (or **“commercial email”**) “means any electronic mail message the primary purpose of which is the commercial advertisement or promotion of a commercial product or service (including content on an Internet website for a commercial purpose).” 15 U.S.C. § 7702(2)(A).

2. **“Competent and reliable scientific evidence”** means tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that have been conducted and evaluated in an objective manner by persons qualified to do so, using

procedures generally accepted in the profession to yield accurate and reliable results.

7. **“Electronic mail address”** “means a destination, commonly expressed as a string of characters, consisting of a unique user name or mailbox (commonly referred to as the ‘local part’) and a reference to an Internet domain (commonly referred to as the ‘domain part’), whether or not displayed, to which an electronic mail message can be sent or delivered.” 15 U.S.C. § 7702(5).

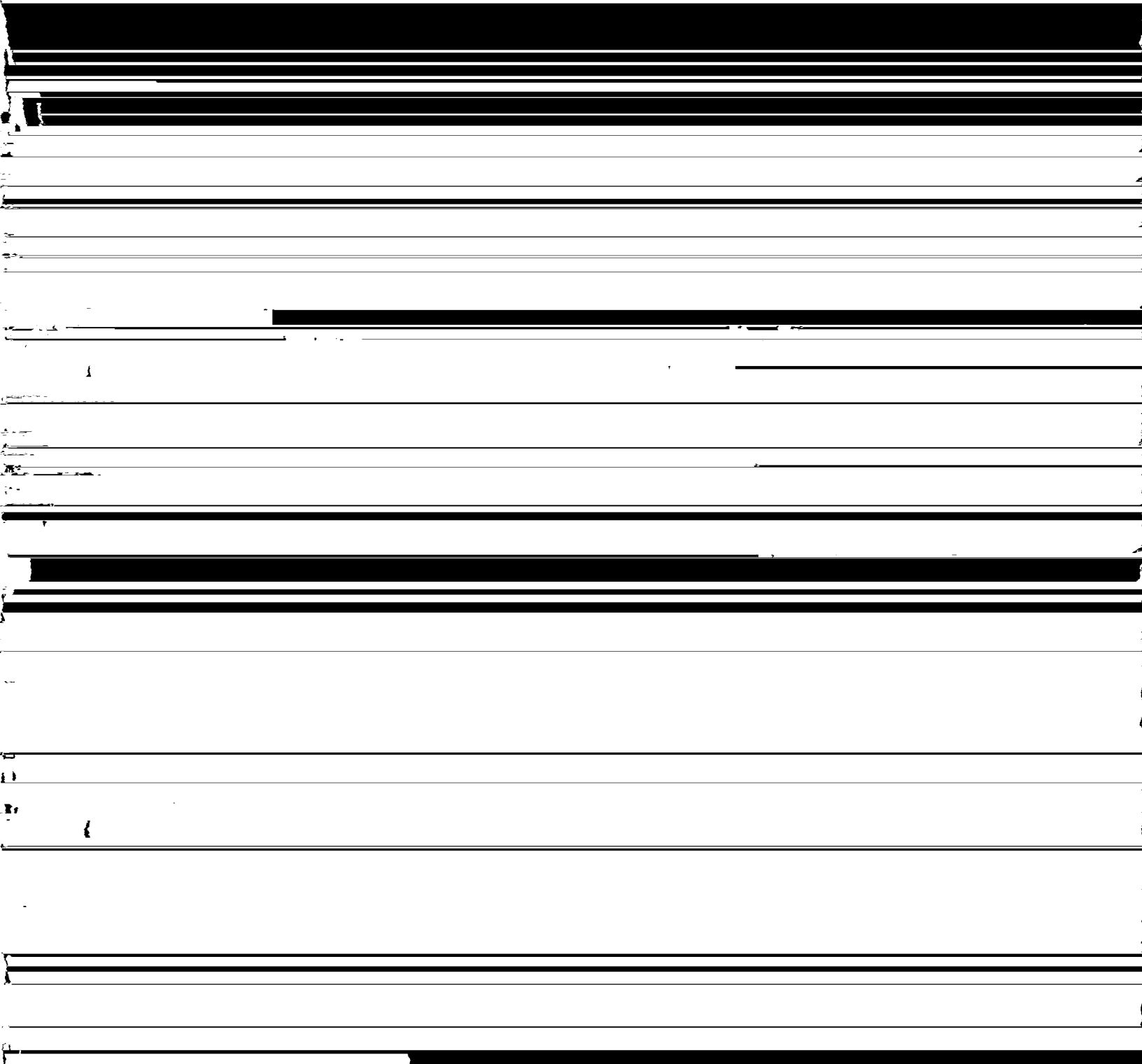
8. **“Header information”** “means the source, destination, and routing information

of an electronic mail message, including the originating domain name and originating

12. **“Material”** means likely to affect a person’s choice of, or conduct regarding, goods or services.

13. **“Person”** means a natural person, organization, or other legal entity, including a

implication, including through the use of a trade name or endorsement, any false or misleading oral or written statement or representation in connection with the marketing, advertising, promotion, offering for sale, sale or provision of any Hoodia- or HGH-related Products, or any other products or services, including but not limited to:



II.

PROHIBITIONS AGAINST VIOLATIONS OF CAN-SPAM

employees, and attorneys, and those persons or entities in active concert or participation with

any person or entity who is a party to this Order, or who is acting in concert or participation with any such person or entity, whether acting

the ETC Act and the CAN SPAM Act. This monetary judgment shall become

immediately due and payable by Defendants upon entry of this Order, and interest

IV.

ASSETS HELD BY THIRD PARTIES

IT IS FURTHER ORDERED that Defendants shall have no right, title and interest to assets frozen pursuant to Section XII of the Preliminary Injunction entered by the Court on October 25, 2007, including assets held by ePassporte, N.V., eFulfillment Service Inc., and First Data Corporation. In order to partially satisfy the monetary judgment set forth in Section III above, any financial or brokerage institution, escrow agent, title company, commodity trading company, automated clearing house, network transaction processor, business entity, or person that holds, controls, or maintains custody of any account or asset of, on behalf of, or for the benefit of, the Defendants, including ePassporte, N.V., eFulfillment Service Inc., and First Data Corporation, shall turn over such account or asset to the Commission within ten (10) business days of receiving notice of this Order by any means including but not limited to, via facsimile.

COMPLIANCE MONITORING

but not limited to:

1. obtaining discovery from any person, without further leave of Court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, 45 and 69;

- a. Any changes in such Defendant's residence, mailing addresses and telephone numbers within ten (10) days of the date of such

business entity about which a Defendants learn less than thirty (30) days

[REDACTED]

2. For all Defendants:

- a. A copy of each acknowledgment of receipt of this Order obtained by Defendants pursuant to the Section titled "Distribution of Order;" and
- b. Any other changes required to be reported under Subsection A of this Section.

C. Each Defendant shall notify the Commission of the filing of a bankruptcy petition by such Defendant within fifteen (15) days of filing.

D. For the purposes of this Order, Defendants shall, unless otherwise directed by the

IT IS FURTHER ORDERED that Defendants, in connection with any business in which: (1) any Defendant is a majority owner of the business or directly or indirectly manages or controls the business; and (2) the business is engaged in or assists others in engaging in the

subject matter of the Order; and (3) any business entity resulting from any change

Section 101.10 of the Section titled "Compliance

Reporting." For current personnel, delivery shall be within five (5) days of service of this Order upon such Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities

IX.

RESTRAINING PROVISIONS

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry of this Order, Defendants, in connection with any business in which Defendant Ratelle or Gnanendran is the majority owner of the business or directly or indirectly manages or controls the business, or where the business is engaged in, or assists others in engaging in, the offering for sale or sale of any product or service over the Internet, and their agents, employees, officers, corporations, and those persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from failing to create and retain the following records:

- A. Accounting records that reflect the cost of goods or services sold, revenues generated, and the disbursement of such revenues;
- B. Records accurately reflecting: the name, address, and telephone number 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~~

F. Copies of all sales scripts, training materials, advertisements, or other marketing

materials; and

F. All records and documents necessary to demonstrate full compliance with each

XII.

~~DEFINITION OF JURISDICTION~~

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

with D.