

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION**

**CASE NO. 12-23065-CIV-ALTONAGA**

**FEDERAL TRADE COMMISSION,**

Plaintiff,

v.

**FITNESS BRANDS, INC.; FITNESS BRANDS  
INTERNATIONAL, INC.; TARA PRODUCTIONS,  
INC.; NEW U, INC.; DIRECT HOLDINGS  
AMERICAS, INC.; DIRECT ENTERTAINMENT**

53(b), filed its Complaint

for Permanent Injunction and Other Equitable Relief (“Complaint”) against Defendants Fitness

The Reader's Digest Association, Inc. alleging deceptive acts or practices and false advertisements in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

Defendants JNL, Inc., JNL Worldwide, Inc., and Jennifer Nicole Lee (collectively, the "JNL Defendants"), having been represented by counsel, and acting by and through said counsel, have consented to the entry of this Stipulated Final Judgment and Order for Permanent Injunction and Other Equitable Relief ("Order") without a trial or adjudication of any issue of law or fact herein.

**NOW THEREFORE**, the Plaintiff and the JNL Defendants, having requested the Court to enter this Order, and the Court having considered the Order reached between the parties, **IT IS**

5. This Order is for settlement purposes and does not constitute, and shall not be interpreted to constitute, an admission by the JNL Defendants or a finding that the law, including but not limited to the FTC Act, has been violated as alleged in the Commission's Complaint.
6. The JNL Defendants waive: (a) all rights to seek appellate review or otherwise challenge or contest the validity of this Order; (b) any claim that they may have against the Commission, its employees, representatives, or agents; (c) all claims under the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended by Pub. L. 104-121, 110 Stat. 847, 863-64 (1996); and (d) any rights to attorney's fees that may arise under said provision of law. The Commission and the JNL Defendants shall each bear their own costs and attorney's fees incurred in this action.
7. This Order is in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law.
8. Entry of this Order is in the public interest.
9. This Order reflects the negotiated agreement of the parties. The Commission and the JNL Defendants have agreed that entry of this Order settles and resolves all matters of dispute between them arising from the conduct alleged in the Commission's Complaint as of the date of entry of this Order.

#### **DEFINITIONS**

For the purposes of this Order, the following definitions shall apply:

1. The "Ab Circle Pro" means the Ab Circle Pro exercise device described in the Commission's Complaint and any related accessories or supplies.

2. “Corporate Defendants” means JNL, Inc. and JNL Worldwide, Inc., and their successors and assigns, individually, collectively, or in any combination.
3. “Jennifer Nicole Lee” means Jennifer Nicole Lee, individually and as an officer and director of JNL, Inc. and JNL Worldwide, Inc.
4. “JNL Defendants” means the Corporate Defendants and Jennifer Nicole Lee, individually, collectively, or in any combination.
5. “Commerce” means as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
6. “Covered Product” means any exercise equipment, or any food, drug, or device, as the terms “food,” “drug,” and “device” are defined in Section 15 of the FTC Act, 15 U.S.C. § 55.
7. “Substantially Similar Device” means an abdominal exercise device that is substantially similar in function, appearance, and design to the Ab Circle Pro device.
8. “Document” or “Documents” means any materials listed in Federal Rule of Civil Procedure 34(a) and includes writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which information can be obtained and translated, if necessary, into reasonably usable form through detection devices. A draft or nonidentical copy is a separate Document within the meaning of the term.
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4. Form 1040, U.S. Individual Income Tax Return, for Edward Lee and Jennifer N. Siciliano, for calendar year 2008;
5. Form 1040, U.S. Individual Income Tax Return, for Jennifer Lee, for calendar year 2009;
6. Form 1040, U.S. Individual Income Tax Return, for Jennifer Lee, for calendar year 2010;
7. Form 1120S, U.S. Income Tax Return for an S Corporation, for JNL Worldwide Inc., for tax year beginning 07/04/2009, ending 12/31/2009;
8. Form 1120S, U.S. Income Tax Return for an S Corporation, for JNL Worldwide Inc., for calendar year 2010;
9. A Profit & Loss Statement January through November 2011 for JNL Worldwide Inc.;
10. A Balance Sheet as of November 30, 2011, for JNL Worldwide Inc.;
11. Form 1120S, U.S. Income Tax Return for an S Corporation, for Jennifer Nicole Lee, Inc., for calendar year 2008;
12. Form 1120S, U.S. Income Tax Return for an S Corporation, for Jennifer Nicole Lee Inc., for calendar year 2009;
13. Form 1120S, U.S. Income Tax Return for an S Corporation, for Jennifer Nicole Lee Inc., for calendar year 2010;
14. A Profit & Loss Statement January through November 2011 for Jennifer Nicole Lee, Inc.;

15. A Balance Sheet as of November 30, 2011, for Jennifer Nicole Lee, Inc.;
16. A letter dated January 18, 2010, from Jennifer Nicole Lee to Edward Glennon;
17. A one-page screen shot dated January 9, 2012, of the account balance in the Jennifer Nicole Lee, Inc. bank account with account number ending 5956.

The JNL Defendants stipulate that all of the materials referenced above are truthful, accurate, and complete in all material respects as of the date of such information. These documents contain material information upon which the Commission relied in negotiating and agreeing to the terms of this Order.

- B. If, upon motion by the Commission, a Court determines that, with respect to any of the materials referenced above, any JNL Defendant made a material misrepresentation or omitted material information concerning its financial condition, a judgment in the amount of seven hundred ten thousand, four hundred eighty dollars (\$710,480), which represents the amount of royalties that the JNL Defendants received from Ab Circle Pro sales, shall be entered by the Court against



administration of such equitable relief. If the Commission determines, in its sole discretion, that direct redress to consumers is wholly or partially impracticable, or funds remain after the redress is completed, the Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to the JNL Defendants' practices alleged in the Complaint. Any funds not used for such equitable relief shall be deposited in the United States Treasury as disgorgement. The JNL Defendants shall have no right to challenge the Commission's choice of remedies under this Section. The JNL Defendants shall have no right to contest the manner of distribution chosen by the Commission. This judgment for equitable monetary relief is solely remedial in nature and is not a fine, penalty, punitive assessment, or forfeiture.

D.

elements necessary to sustain an action by the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and that this Order shall have collateral estoppel effect for such purposes.

- F. In accordance with 31 U.S.C. § 7701, the JNL Defendants are hereby required, unless they have done so already, to furnish to the Commission their taxpayer identifying numbers, which shall be used for the purposes of collecting and reporting on any delinquent amount arising out of the JNL Defendants' relationship with the government.
- G. Proceedings instituted under this Section are in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including but not limited to any contempt proceedings or any other proceedings the Commission may initiate to enforce this Order.

owner or directly or indirectly controls and each Corporate Defendant, must deliver a copy of this Order to: (1) all principals, officers, directors, and managers with responsibilities with respect to the subject matter of this Order; (2) all employees, agents, and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven (7) days of entry of this Order for current personnel. To all others, delivery must occur before they assume their responsibilities.

- C. From each individual or entity to which a JNL Defendant delivered a copy of this Order, that Defendant must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this Order.

**V.**

**COMPLIANCE REPORTING**

**IT IS FURTHER ORDERED** that the JNL Defendants make timely submissions to the Commission:

- A. One hundred eighty (180) days after entry of this Order, each JNL Defendant must submit a compliance report, sworn under penalty of perjury.
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names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the products and services offered, the means of advertising, marketing, and sales, and the involvement of any other defendant in this case (which Jennifer Nicole Lee must describe if she knows or should know due to her own involvement); (d) describe in detail whether and how that JNL Defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission;

2. Additionally, Jennifer Nicole Lee must: (a) identify all telephone numbers and all email, Internet, physical, and postal addresses, including all residences; (b) identify all titles and roles in all business activities, including any business for which she performs services whether as an employee or otherwise and any entity in which she has any ownership interest; and (c) describe in detail her involvement in each such business, including title, role, responsibilities, participation, authority, control and any ownership.

- B. For twenty (20) years following entry of this Order, each JNL Defendant must submit a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in the following:



E. Unless otherwise directed by a Commission representative in writing, all

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- D. Complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response;
- E. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission; and
- F. A copy of each advertisement or other marketing material.

**VII.**

**COMPLIANCE MONITORING**

**IT IS FURTHER ORDERED** that, for the purpose of monitoring the JNL Defendants' compliance with this Order, including any failure to transfer any assets as required by this Order:

- A. Within fourteen (14) days of receipt of a written request from a representative of the Commission, each JNL Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents, for inspection and copying. The Commission is also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.
- B. For matters concerning this Order, the Commission is authorized to communicate directly with each JNL Defendant. The JNL Defendants must permit representatives of the Commission to interview any employee or other person affiliated with any JNL Defendant who has agreed to such an interview. The person interviewed may have counsel present.

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