UNITED STATES OF AMERICA

FEDERAL TRADE COMMISSION WASHINGTON, D.C. 20580

January 14,2010

VIA FACSIMILE AND EXPRESS MAIL

Mark Benning
c/o Reid M. Figel, Esquire
Kellogg, Huber, Hansen, Todd,
Evans & Figel, P.L.L.C.
1615 M. St., Suite 400
Washington, DC 20036

Swish Marketing, Inc.
Michael A. Thurman, Esquire
Loeb & Loeb, LLP

Messrs. Figel and Thurman:

On May 15,2009, a Civil Investigative Demand ("CID") was issued to Mark Benning as
part of the Commission's investigation of the marketing activities of Swish Marketing, Inc. ("Swish"). On May 21,2009, Mark Benning filed a petition to quash that CID; on May 22, 2009, Swish filed a petition to quash or limit the CID served on Mark Benning. 1 On August 19, 2009, the Commission filed a suit seeking a permanent injunction and other equitable relief against, inter alia, Mark Benning and Swish. Fed Trade Comm 'n v. Swish Marketing, Inc., et aI, Docket No. C-09-03814-RS (N.D. Cal., San Jose Div. Aug. 19,2009). The Commission understands that staff has terminated its investigation, and intends to seek any additional information it might require regarding this matter as part

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In light of the foregoing, IT IS ORDERED THAT the CID issued to Mark Benning be,
and it hereby is, WITHDRAWN.

IT IS FURTHER ORDERED THAT the petitions filed by Mark Benning and Swish to
quash or limit the CID served on Mark Benning be, and they hereby are, DISMISSED because
they are moot. Oto03yRTj -0.0s Tc 11.5Td (a 0 Td (are,)Tj ETal)Tj 0.0E>BDC /T1_c 11.T365Td (they)T