

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



1 Company, The Upside, LLC, Thermography for Lm

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

DEFINITIONS

For the purpose of this Order, the following definitions apply:

A. **“Acquirer”** or **“Acquiring Bank”** means a business organization, Financial Institution, or an agent of a business organization or Financial Institution that has authority from an organization that operates or licenses a credit card system (e.g., Visa, MasterCard, American Express or Discover) to authorize Merchants to accept, transmit, or process payment by credit card through the credit card system for money, products, or anything else of value.

B. **“Business Coaching Program”** means any program, plan, or product, including those related to work-at-home-opportunities, that is represented, expressly or by implication, to train or teach a participant or purchaser how to establish a business or earn money or other consideration through a business or other activity.

C. **“Corporate Defendants”** means Digital Altitude LLC; Digital Altitude Limited; Aspire Processing LLC; Aspire Processing Limited; Aspire Ventures Ltd; Disc Enterprises Inc.; RISE Systems & Enterprise LLC (Utah); RISE Systems & Enterprise LLC (Nevada); Soar International Limited Liability Company; The Upside, LLC; Thermography for Life, LLC, d/b/a Living Exceptionally, Inc., and each of their subsidiaries, affiliates, successors, and assigns.

D. **“Credit Card Laundering”** means: (a) presenting or depositing into, or causing or allowing another to present or deposit into, the credit card system for payment, a Credit Card Sales Draft generated by a transaction that is not the result of a credit card transaction between the cardholder and the Merchant; (b) employing, soliciting, or otherwise causing or allowing a Merchant, or an employee, representative, or agent of a Merchant, to present to or deposit into the credit card system for payment, a Credit Card Sales Draft generated by a transaction that is not the result of a credit card transaction between the cardholder

1 and the Merchant; or (c) obtaining access to the credit card system through the use
2 of a business relationship or an affiliation with a Merchant, when such access is not
3 authorized by the Merchant Account agreement or the applicable credit card
4 system.

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A. Creating, advertising, marketing, promoting, offering for sale, or
selling, or assisting others in

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 bank account number, Social Security number, other identifying information, or
2 any data that enables access to a customer's account (including a credit card, bank
3 account, or other financial account), that any Defendant obtained prior to entry of
4 this Order in connection with any activity that pertains to the sale of money-
5 making opportunities and/or purported educational or coaching products or
6 services provided online; and

7 C. Failing to destroy customer information that any Defendant obtained
8 prior to entry of this Order in connection with any activity that pertains to the sale
9 of money-making opportunities and/or purported educational or coaching products
10 or services provided online in all forms in Settling Defendant's possession,
11 custody, or control within 30 days after receipt of written direction to do so from a
12 representative of the Commission.

13 D. Provided, however, that customer information need not be disposed
14 of, and may be disclosed, to the extent requested by a government agency or
15 required by law, regulation, or court order.

16 **XK0 EQQRGTCVKQP"**

17 **KV"KU"HWTV JGT"QTFGTGF** that Settling Defendant must fully cooperate
18 with representatives of the Commission in this case and in any investigation related
19 to or associated with the transactions or the occurrences that are the subject of the
20 Complaint. Settling Defendant must provide truthful and complete information,
21 evidence, and testimony. Settling Defendant must appear and must cause Settling
22 Defendant's officers, employees, representatives, or agents to appear for
23 interviews, discovery, hearings, trials, and any other proceedings that a

24 ComDe # m M M M B v, a aqM i

25
26
27
28

1 **VII. RECEIVERSHIP TERMINATION**

2 **IT IS FURTHER ORDERED** that the Receiver must complete all duties
3 pertaining to Settling Defendant, within 120 days after entry of this Order, but any
4 party or the Receiver may request that the Court extend that Receiver's term for
5 good cause. Upon completion by the Receiver of all such duties, the Receivership
6 over the Settling Defendant shall be dissolved and the Receiver discharged as to
7 the Settling Defendant.

8
9 **VIII. ORDER ACKNOWLEDGMENTS**

10 **IT IS FURTHER ORDERED** that Settling Defendant obtain
11 acknowledgments of receipt of this Order:

12 A. Settling Defendant, within 7 days of entry of this Order, must submit
13 to the Commission an acknowledgment of receipt of this Order sworn under
14 penalty of perjury.

15 B. For 5 years after entry of this Order, Settling Defendant must deliver a
16 copy of this Order to: (1) all principals, officers, directors, and LL \$

17
18
19
20
21
22
23
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A. One year after entry of this Or

1 the laws of the United States of America that the foregoing is true and correct.
2 Executed on: _____” and supplying the date, signatory’s full name, title (if
3 applicable), and signature.

4 E. Unless otherwise directed by a Commission representative in writing,
5 all submissions to the Commission pursuant to this Order must be emailed to
6 DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to:
7 Associate Director for Enforcement, Bureau of Consumer Protection, Federal
8 Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The
9 subject line must begin: FTC v. Digital Altitude, et al. (The Upside, LLC), No.
10 X180021.

11 **X. RECORDKEEPING**

12 **IT IS FURTHER ORDERED** that Settling Defendant must create certain
13 records for 20 years after entry of the Order, and retain each such record for 5
14 years. Specifically, for any business that Settling Defendant, individually or
15 collectively with any other Defendants, is a majority owner or controls directly or
16 indirectly, must create and retain the following records in connection with Payment
17 Processing:

18 A. accounting records showing the revenues from all goods or services
19 sold;

20 B. personnel records showing, for each person providing services,
21 whether as an employee or otherwise, that person’s: name; addresses; telephone
22 numbers; job title or position; dates of service; and (if applicable) the reason for
23 termination;

24 C. records of all consumer complaints and refund requests, whether
25 received directly or indirectly, such as through a third party, and any response;

26 D. all records necessary to demonstrate full compliance with each
27 provision of this Order, including all submissions to the Commission; and

28 E. a copy of each unique advertisement or other marketing material.

1 **XIII. LIMITED EFFECT OF THIS ORDER**

2 **IT IS FURTHER ORDERED** that this Order is entered pursuant to the
3 stipulation of the Settling Defendant and the FTC. The approval of the terms of this
4 Order will not affect a later determination as to whether the same or similar terms
5 proposed by the FTC are appropriate with respect to a defendant who has defaulted
6 in this matter, or whose liability is determined through proceedings in this matter.
7 Any such later determinations will be made based on a de novo review of the
8 relevant facts and circumstances.

9 **IT IS SO ORDERED.**

10

11

12

13 Dated: July 5, 2018

14

15

16

17

18

19

20

21

22

23

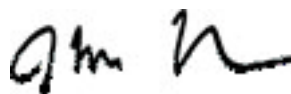
24

25

26

27

28



JOHN A. KRONSTADT
UNITED STATES DISTRICT JUDGE