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NOT FOR PUBLICATION

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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**8
9 Federal Trade Commission,
10 Plaintiff,

No. CV-15-01578-PHX-JJT

ORDER

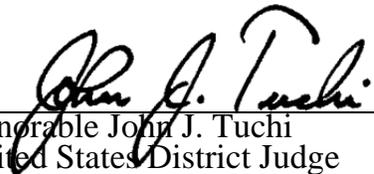
11 v.

12 Vemma Nutrition Company, *et al.*,
13 Defendants.14 At issue is Plaintiff Federal Trade Commission's (FTC's) Motion to Clarify or
15 Reconsider Preliminary Injunction as to Defendant Tom Alkazin (Doc. 135), to which
16 Defendants filed no Response.17 In its Motion, the FTC points out that, in the Preliminary Injunction Order
18 (Doc. 118), the Court found that the FTC is likely to succeed on the merits in showing
19 that Mr. Alkazin made false and misleading income claims and omissions. As a result,
20 the FTC argues that the Court should clarify the Preliminary Injunction Order and subject
21 Mr. Alkazin to the same injunction prohibiting material misrepresentations and
22 omissions, including deceptive income claims, as the Court imposed on the Corporate
23 Defendants in Sections I.B through I.E of the Order. Mr. Alkazin did not oppose the
24 FTC's request, which prompts its summary disposition, *see* LRCiv 7.2(i), and in any
25 event the Court agrees with the FTC's analysis. As a result, the Court will grant the
26 FTC's Motion in this respect.27 The FTC also argues that Mr. Alkazin should be subject to Section I.A of the
28 Preliminary Injunction Order prohibiting the operation of an illegal pyramid scheme

1 based on the Court's finding that Mr. Alkazin helped create the Two & Go program,
2 which has indicia of a pyramid scheme. In support, the FTC cites a number of cases
3 holding that liability for violation of the FTC Act may arise when an individual directly
4 participated in unfair or deceptive acts or practices, as an alternative to the liability
5 arising from authority to control unfair or deceptive acts or practices. *See FTC v. Publ'g*
6 *Clearing House, Inc.*, 104 F.3d 1168, 1170 (9th Cir. 1997); *FTC v. J.K. Publ'ns*, 99 F.
7 Supp. 2d 1176, 1203 (C.D. Cal. 2000). The FTC contends that, because the Court found
8 that Mr. Alkazin participated in acts or practices that the FTC is likely to succeed on the
9 merits in demonstrating were pyramidal and thus unfair or deceptive under the Act, the
10 Court should subject Mr. Alkazin to the same injunction prohibiting pyramidal activity as
11 the Court imposed on the Corporate Defendants in Section I.A of the Order. Mr. Alkazin
12 again did not oppose the FTC's request, *see* LRCiv 7.2(i), and the Court again agrees
13 with the FTC's analysis. Accordingly, the Court will grant the FTC's Motion, and
14 Mr. Alkazin will be subject to the injunctive provisions contained in Sections I.A through
15 I.E of the Preliminary Injunction Order.

16 IT IS THEREFORE ORDERED granting Plaintiff Federal Trade Commission's
17 Motion to Clarify or Reconsider Preliminary Injunction as to Defendant Tom Alkazin
18 (Doc. 135). The Preliminary Injunction Order (Doc. 118) is hereby amended such that
19 Mr. Alkazin is subject to the prohibitions of Sections I.A through I.E of the Order.

20 Dated this 30th day of June, 2016.

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23 Honorable John J. Tuchi
United States District Judge
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