

1 SOPHIA H. CALDERÓN, CA Bar No. 278135
 2 Email: scalderon@ftc.gov
 3 LAURA M. SOLIS, WA Bar No. 36005, *pro hac vice*
 4 Email: lsolis@ftc.gov
 5 Federal Trade Commission
 6 915 2nd Ave., Suite 2896, Seattle, WA 98174
 7 (206) 220-6350 (phone) / (206) 220-6366 (fax)

8 LOCAL COUNSEL
 9 THOMAS J. SYTA, CA Bar No. 116286
 10 Email: tsyta@ftc.gov
 11 Federal Trade Commission
 12 10877 Wilshire Blvd., Suite 700, Los Angeles, CA 90024
 13 (310) 824-4324 (phone) / (310) 824-4380 (fax)

JS-6

14 Attorneys for Plaintiff
 15 FEDERAL TRADE COMMISSION

16 UNITED STATES DISTRICT COURT
 17 CENTRAL DISTRICT OF CALIFORNIA

)	
FEDERAL TRADE COMMISSION,)	No. 5:17-CV-00252-JGB-DTB
Plaintiff,)	
vs.)	ENTRY OF DEFAULT JUDGMENT
)	AND FINAL ORDER FOR
)	PERMANENT INJUNCTION AND
ABC HISPANA, INC., a corporation;)	MONETARY JUDGMENT
ISB LATINO, INC., a corporation;)	AGAINST ALL DEFENDANTS
ABC LATINA, LLC, a limited liability)	
company; GONZALO RICARDO)	
BAZÁN JIMÉNEZ; and MILAGROS)	
RAQUEL URMENETA,)	
Defendants.)	

26
 27 Plaintiff, the Federal Trade Commission (“Commission” or “FTC”), filed
 28 its Complaint for Permanent Injunction and Other Equitable Relief (“Complaint”)

1 pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15
2 U.S.C. § 53(b), and the Telemarketing and Consumer Fraud and Abuse
3 Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101 – 6108. On February
4 14, 2017, the Court entered a temporary restraining order against Defendants.
5 ECF No. 20. On April 18, 2017, the Court entered a preliminary injunction order
6 against Defendants. ECF No. 35. On May 31, 2017, upon application by the
7 FTC, the Clerk of the Court entered default as to all Defendants. ECF No. 37.

8 The FTC has now applied for entry of a default judgment against all
9 Defendants. In light of Defendants’ default, and after considering the pleadings,
10 declarations, exhibits, and all other evidence filed in this matter, the Court hereby
11 GRANTS the FTC’s application, upon the terms set forth below.

12 **FINDINGS**

13 The Court finds as follows:

14 1. This is an action by the FTC instituted under Section 13(b) of the
15 FTC Act, 15 U.S.C. § 53(b), and the Telemarketing Act, 15 U.S.C. §§ 6101 –
16 6108. The FTC has authority to seek the relief contained herein.

17 2. The Complaint charges that the Defendants participated in deceptive
18 telemarketing acts or practices in violation of Section 5(a) of the FTC Act, 15
19 U.S.C. § 45(a), and the FTC’s Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part
20 310. The FTC alleges that Defendants engaged in a fraudulent telemarketing
21 scheme targeting Spanish-speaking consumers, in which Defendants’
22 telemarketers sold English-language learning materials and tablet computers by
23 making false and misleading representations and threatening consumers. The
24 Complaint seeks both permanent injunctive relief and equitable monetary relief
25 for Defendants’ deceptive acts or practices as alleged therein.

26 3. The FTC’s Complaint states a claim upon which relief may be
27 granted.

1 manufacturer, model year, or, in the case of instructional materials, the inclusion
2 of personal instruction or a certificate or diploma upon completion;

3 F. affiliation with or status of a lawyer or government official; and

4 G. that any adverse action will be or has been taken against any
5 consumer, including but not limited to legal actions, damage to a consumer's
6 credit history, seizure of a consumer's home, arrest, incarceration, or reporting
7 consumers to immigration authorities.

8 **III. MONETARY JUDGMENT**

9 IT IS FURTHER ORDERED that:

10 A. Judgment in the amount of six million three hundred fifteen
11 thousand twenty-three dollars (\$6,315,023) is entered in favor of the FTC against
12 Defendants, jointly and severally, as equitable monetary relief.

13 B. Defendants are ordered to pay to the FTC six million three hundred
14 fifteen thousand twenty-three dollars (\$6,315,023). Such payment must be made
15 within 7 days of entry of this Order by electronic fund transfer in accordance
16 with instructions provided by a representative of the FTC.

17 C. Defendants' Taxpayer Identification Numbers (Social Security
18 Numbers or Employer Identification Numbers) may be used for collecting and
19 reporting on any delinquent amount arising out of this Order, in accordance with
20 31 U.S.C. § 7701.

21 D. All money paid to the FTC pursuant to this Order may be deposited
22 into a fund administered by the FTC or its designee to be used for equitable
23 relief, including consumer redress and any attendant expenses for the
24 administration of any redress fund. If a representative of the FTC decides that
25 direct redress to consumers is wholly or partially impracticable or money remains
26 after redress is completed, the FTC may apply any remaining money for such
27 other equitable relief (including consumer information remedies) as it determines
28 to be reasonably related to Defendants' practices alleged in the Complaint. Any

1 money not used for such equitable relief is to be deposited to the U.S. Treasury as
2 disgorgement. Defendants have no right to challenge any actions the FTC or its
3 representatives may take pursuant to this Subsection.

4 **IV. CUSTOMER INFORMATION**

5 IT IS FURTHER ORDERED that Defendants and their officers, agents,
6 employees, and attorneys, and all other persons in active concert or participation
7 with any of them, who receive actual notice of this Order, whether acting directly
8 or indirectly, are permanently restrained and enjoined from directly or indirectly:

9 A. Disclosing, using, or benefitting from customer information,
10 including the name, address, telephone number, email address, social security
11 number, language preferences, other identifying information, or any data that
12 enables access to a customer's account (including a credit card, bank account, or
13 other financial account), that any Defendant obtained prior to entry of this Order
14 in connection with the telemarketing of goods or services; and

15 B. Failing to destroy such customer information in all forms in their
16 possession, custody, or control within 30 days after receipt of written direction to
17 do so from a representative of the FTC.

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

21 **V. COOPERATION**

22 IT IS FURTHER ORDERED that Defendants must fully cooperate with
23 representatives of the FTC in this case and in any investigation related to or
24 associated with the transactions or the occurrences that are the subject of the
25 Complaint. Defendants must provide truthful and complete information,
26 evidence, and testimony. Individual Defendants must appear, and Corporate
27 Defendants must cause such Corporate Defendants' officers, employees,
28 representatives, or agents to appear, for interviews, discovery, hearings, trials,

1 and any other proceedings that an FTC representative may reasonably request
2 upon 5 days written notice, or other reasonable notice, at such places and times as
3 an FTC representative may designate, without the service of a subpoena.

4 **VI. ORDER ACKNOWLEDGMENTS**

5 IT IS FURTHER ORDERED that Defendants obtain acknowledgments of
6 receipt of this Order:

7 A. Each Defendant, within 7 days of entry of this Order, must submit to
8 the FTC an acknowledgment of receipt of this Order sworn under penalty of
9 perjury.

10 B. For 5 years after entry of this Order, each Individual Defendant, for
11 any business that such Defendant, individually or collectively with any other
12 Defendant, is the majority owner or controls directly or indirectly, and each
13 Corporate Defendant, must deliver a copy of this Order to: (1) all principals,
14 officers, directors, and LLC managers and members; (2) all employees, agents,
15 and representatives who participate in conduct related to the subject matter of the
16 Order; and (3) any business entity resulting from any change in structure as set
17 forth in the Section titled Compliance Reporting. Delivery must occur within 7
18 days of entry of this Order for current personnel. For all others, delivery must
19 occur before they assume their responsibilities.

20 C. From each individual or entity to which a Defendant delivered a
21 copy of this Order, that Defendant must obtain, within 30 days, a signed and
22 dated acknowledgment of receipt of this Order.

23 **VII. COMPLIANCE REPORTING**

24 IT IS FURTHER ORDERED that Defendants make timely submissions to
25 the FTC:

26 A. One year after entry of this Order, each Defendant must submit a
27 compliance report, sworn under penalty of perjury:
28

1 1. Each Defendant must: (a) identify the primary physical,
2 postal, and email address and telephone number, as designated
3 points of contact, which representatives of the FTC may use to
4 communicate with such Defendant; (b) identify all of such
5 Defendant's businesses by all of their names, telephone numbers,
6 and physical, postal, email, and Internet addresses; (c) describe the
7 activities of each business, including the goods and services offered,
8 the means of advertising, marketing, and sales, and the involvement
9 of any other Defendant (which Individual Defendants must describe
10 if they know or should know due to their own involvement);
11 (d) describe in detail whether and how such Defendant is in
12 compliance with each Section of this Order; and (e) provide a copy
13 of each Order Acknowledgment obtained pursuant to this Order,
14 unless previously submitted to the FTC.

15 2. Additionally, each Individual Defendant must: (a) identify all
16 telephone numbers and all physical, postal, email and Internet
17 addresses, including all residences; (b) identify all business
18 activities, including any business for which such Defendant
19 performs services whether as an employee or otherwise and any
20 entity in which such Defendant has any ownership interest; and
21 (c) describe in detail such Defendant's involvement in each such
22 business, including title, role, responsibilities, participation,
23 authority, control, and any ownership.

24 B. For 20 years after entry of this Order, each Defendant must submit a
25 compliance notice, sworn under penalty of perjury, within 14 days of any change
26 in the following:

27 1. Each Defendant must report any change in: (a) any
28 designated point of contact; or (b) the structure of any Corporate

1 Defendant or any entity that such Defendant has any ownership
2 interest in or controls directly or indirectly that may affect
3 compliance obligations arising under this Order, including: creation,
4 merger, sale, or dissolution of the entity or any subsidiary, parent, or
5 affiliate that engages in any acts or practices subject to this Order.

6 2. Additionally, each Individual Defendant must report any
7 change in: (a) name, including aliases or fictitious name, or
8 residence address; or (b) title or role in any business activity,
9 including any business for which such Defendant performs services
10 whether as an employee or otherwise and any entity in which such
11 Defendant has any ownership interest, and identify the name,
12 physical address, and any Internet address of the business or entity.

13 C. Each Defendant must submit to the FTC notice of the filing of any
14 bankruptcy petition, insolvency proceeding, or similar proceeding by or against
15 such Defendant within 14 days of its filing.

16 D. Any submission to the FTC required by this Order to be sworn under
17 penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746,
18 such as by concluding: “I declare under penalty of perjury under the laws of the
19 United States of America that the foregoing is true and correct. Executed on:
20 _____” and supplying the date, signatory’s full name, title (if applicable), and
21 signature.

22 E. Unless otherwise directed by an FTC representative in writing, all
23 submissions to the FTC pursuant to this Order must be emailed to
24 DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to:
25 Associate Director for Enforcement, Bureau of Consumer Protection, Federal
26 Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580.
27 The subject line must begin: *FTC v. ABC Hispana, Inc., et al.* (FTC Matter No.
28 X170027).

1 **VIII. RECORDKEEPING**

2 IT IS FURTHER ORDERED that Defendants must create certain records
3 for 20 years after entry of the Order, and retain each such record for 5 years.
4 Specifically, each Corporate Defendant and each Individual Defendant, for any
5 business that such Individual Defendant, individually or collectively with any
6 other Defendant, is a majority owner or controls directly or indirectly, must
7 create and retain the following records:

8 A. Accounting records showing the revenues from all goods or services
9 sold;

10 B. Personnel records showing, for each person providing services,
11 whether as an employee or otherwise, that person's: name; addresses; telephone
12 numbers; job title or position; dates of service; and (if applicable) the reason for
13 termination;

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

16 D. All records necessary to demonstrate full compliance with each
17 provision of this Order, including all submissions to the FTC; and

18 E. A copy of each unique script, training material, advertisement or
19 other marketing material.

20 **IX. COMPLIANCE MONITORING**

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

24 A. Within 14 days of receipt of a written request from a representative
25 of the FTC, each Defendant must: submit additional compliance reports or other
26 requested information, which must be sworn under penalty of perjury; appear for
27 depositions; and produce documents for inspection and copying. The FTC is also
28 authorized to obtain discovery, without further leave of court, using any of the

1 procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including
2 telephonic depositions), 31, 33, 34, 36, 45, and 69.

3 B. For matters concerning this Order, the FTC is authorized to
4 communicate directly with each Defendant. Defendants must permit
5 representatives of the FTC to interview any employee or other person affiliated
6 with any Defendant who has agreed to such an interview. The person
7 interviewed may have counsel present.

8 C. The FTC may use all other lawful means, including posing, through
9 its representatives as consumers, suppliers, or other individuals or entities, to
10 Defendants or any individual or entity affiliated with Defendants, without the
11 necessity of identification or prior notice. Nothing in this Order limits the FTC's
12 lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act,
13 15 U.S.C. §§ 49, 57b-1.

14 D. Upon written request from a representative of the FTC, any
15 consumer reporting agency must furnish consumer reports concerning Individual
16 Defendants, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15
17 U.S.C. §1681b(a)(1).

18 X. RETENTION OF JURISDICTION

19 IT IS FURTHER ORDERED that this Court retains jurisdiction of this
20 matter for purposes of construction, modification, and enforcement of this Order.

21
22 SO ORDERED, this 28th day of August, 2017, at 1:40 p.m.

23
24
25 

26 Jesus G. Bernal, U.S. District Judge
27
28