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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

FEDERAL TRADE COMMISSION,  
Plaintiff,  
  
v.  
  
REVMOUNTAIN, LLC, a Nevada limited  
liability company,  
  
ROADRUNNER B2C, LLC, also d/b/a  
REVGO, a Nevada limited liability company,  
  
WAVE ROCK, LLC, a Nevada limited  
liability company,  
  
JUNIPER SOLUTIONS, LLC, a Nevada  
limited liability company,  
  
JASPER WOODS, LLC, a Nevada limited  
liability company,  
  
WHEELER PEAK MARKETING, LLC, a  
Nevada limited liability company,  
  
ROI RUNNER, LLC, a Nevada limited  
liability company,  
  
CHERRY BLITZ, LLC, a Nevada limited  
liability company,  
  
FLAT IRON AVENUE, LLC, a Nevada  
limited liability company,  
  
ABSOLUTELY WORKING, LLC, a Nevada  
limited liability company,  
  
THREE LAKES, LLC, a Nevada limited  
liability company,  
  
BRIDGE FORD, LLC, a Nevada limited  
liability company,  
  
HOW AND WHY, LLC, a Nevada limited  
liability company,  
  
SPRUCE RIVER, LLC, a Nevada limited  
liability company,

Case No: 17-cv-02000-APG-GWF

**STIPULATED PERMANENT  
INJUNCTION AND OTHER  
EQUITABLE RELIEF AS TO  
DEFENDANT DANIELLE FOSS**

**ORDER**

(ECF No. 116-1)

- 1 TRIMXT, LLC, a Nevada limited liability )  
2 company, )
- 3 ELATION WHITE, LLC, a Nevada limited )  
4 liability company, )
- 5 IVORYPRO, LLC, a Nevada limited liability )  
6 company, )
- 7 DOING WHAT'S POSSIBLE, LLC, a )  
8 Nevada limited liability company, )
- 9 REVGUARD, LLC, a Colorado limited )  
10 liability company, )
- 11 REVLIVE!, LLC, a Colorado limited liability )  
12 company, )
- 13 BLUE ROCKET BRANDS, LLC, a )  
14 Colorado limited liability company, )
- 15 CONVERTIS, LLC, a Colorado limited )  
16 liability company, )
- 17 CONVERTIS MARKETING, LLC, a )  
18 Colorado limited liability company, )
- 19 TURTLE MOUNTAINS, LLC, a Colorado )  
20 limited liability company, )
- 21 BOULDER BLACK DIAMOND, LLC, a )  
22 Colorado limited liability company, )
- 23 MINT HOUSE, LLC, a Colorado limited )  
24 liability company, )
- 25 THUNDER AVENUE, LLC, a Colorado )  
26 limited liability company, )
- 27 UNIVERSITY & FOLSOM, LLC, a )  
28 Colorado limited liability company, )
- 29 BOULDER CREEK INTERNET )  
30 SOLUTIONS, INC., a Colorado corporation, )
- 31 WALNUT STREET MARKETING, INC., a )  
32 Colorado corporation, )
- 33 SNOW SALE, LLC, a Colorado limited )  
34 liability company, )
- 35 BRAND FORCE, LLC, a Colorado limited )  
36 liability company, )
- 37 )
- 38 )

- 1 liability company, )
- 2 WILD FARMS, LLC, a Colorado limited )
- liability company, )
- 3 SALAMONIE RIVER, LLC, an Indiana )
- 4 limited liability company, )
- 5 INDIGO SYSTEMS, LLC, an Indiana )
- 6 limited liability company, )
- 7 NIGHT WATCH GROUP, LLC, an Indiana )
- 8 limited liability company, )
- 9 NEWPORT CROSSING, LLC, an Indiana )
- 10 limited liability company, )
- 11 GREENVILLE CREEK, LLC, an Indiana )
- 12 limited liability company, )
- 13 BROOKVILLE LANE, LLC, an Indiana )
- 14 limited liability company, )
- 15 ANASAZI MANAGEMENT PARTNERS, )
- 16 LLC, a Wyoming limited liability company, )
- 17 HONEY LAKE, LLC, a Wyoming limited )
- 18 liability company, )
- 19 CONDOR CANYON, LLC, a Wyoming )
- 20 limited liability company, )
- 21 BRASS TRIANGLE, LLC, an Arizona )
- 22 limited liability company, )
- 23 SOLID ICE, LLC, an Arizona limited )
- 24 liability company, )
- 25 SANDSTONE BEACH, LLC, an Arizona )
- 26 limited liability company, )
- 27 DESERT GECKO, LLC, an Arizona limited )
- liability company, )
- 28 BLIZZARDWHITE, LLC, an Arizona )
- limited liability company, )
- 29 ACTION PRO WHITE, LLC, an Arizona )
- 30 limited liability company, )
- 31 FIRST CLASS WHITENING, LLC, an )
- 32 Arizona limited liability company, )
- 33



1 (“Settling Defendant” or “Foss”) stipulate to entry of this Stipulated Permanent Injunction and  
2 Other Equitable Relief (“Order”) to resolve all matters in dispute in this action between them.

3 **THEREFORE, IT IS ORDERED** as follows:

4 **FINDINGS OF FACT**

5 A. This Court has jurisdiction over this matter.

6 B. The Complaint for Permanent Injunction and Other Equitable Relief alleges that  
7 Settling Defendant participated in deceptive acts or practices in violation of Section 5 of the FTC  
8 Act, 15 U.S.C. § 45, and Section 4 of ROSCA, 15 U.S.C. § 8403.

9 C. Settling Defendant neither admits nor denies any of the allegations in the  
10 Complaint, except as specifically stated in in this Order. Only for purposes of this action,  
11 Settling Defendant admits the facts necessary to establish jurisdiction.

12 D. Settling Defendant waives any claim she may have under the Equal Access to  
13 Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this  
14 Order, and agrees to bear her own costs and attorney fees.

15 **DEFINITIONS**

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

17 A. “**Asset**” means any legal or equitable interest in, right to, or claim to, any  
18 property, wherever located and by whomever held.

19 B. “**Billing Information**” means any data that enables any person to access a  
20 customer’s account, such as a credit card, checking, savings, share or similar account, utility bill,  
21 mortgage loan account, or debit card.

22 C. “**Charge**,” “**Charged**,” or “**Charging**” means any attempt to collect money or  
23 other consideration from a consumer, including but not limited to causing Billing Information to  
24 be submitted for payment, including against the consumer’s credit card, debit card, bank account,  
25 telephone bill, or other account.

1 D. “Clear(ly) and conspicuous(ly)” means that a required disclosure is difficult to  
2 miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of  
3 the following ways:

4 1. In any communication that is solely visual or solely audible, the disclosure  
5 must be made through the same means through which the communication is presented.

6 In any communication made through both visual and audible means, such as a television  
7 advertisement, the disclosure must be presented simultaneously in both the visual and  
8 audible portions of the communication even if the representation requiring the disclosure  
9 is made in only one means;

10 2. A visual disclosure, by its size, contrast, location, the length of time it  
11 appears, and other characteristics, must stand out from any accompanying text or other  
12 visual elements so that it is easily noticed, read, and understood;

13 3. An audible disclosure, including by telephone or streaming video, must be  
14 delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily  
15 hear and understand it;

16 4. In any communication using an interactive electronic medium, such as the  
17 Internet or software, the disclosure must be unavoidable;

18 5. The disclosure must use diction and syntax understandable to ordinary  
19 consumers and must appear in each language in which the representation that requires the  
20 disclosure appears;

21 6. The disclosure must comply with these requirements in each medium  
22 through which it is received, including all electronic devices and face-to-face  
23 communications;

24 7. The disclosure must not be contradicted or mitigated by, or inconsistent  
25 with, anything else in the communication; and

1           8.       When the representation or sales practice targets a specific audience, such  
2 as children, the elderly, or the terminally ill, “ordinary consumers” includes reasonable  
3 members of that group.

4       E.       **“Corporate Defendants”** means RevMountain, LLC; RoadRunner B2C, LLC,  
5 d/b/a RevGo; Wave Rock, LLC; Juniper Solutions, LLC; Jasper Woods, LLC; Wheeler Peak  
6 Marketing, LLC; ROIRunner, LLC; Cherry Blitz, LLC; Flat Iron Avenue, LLC; Absolutely  
7 Working, LLC; Three Lakes, LLC; Bridge Ford, LLC; How and Why, LLC; Spruce River, LLC;  
8 TrimXT, LLC; Elation White, LLC; IvoryPro, LLC; Doing What’s Possible, LLC; RevGuard,  
9 LLC; RevLive!, LLC; Blue Rocket Brands, LLC; Convertis, LLC; Convertis Marketing, LLC;  
10 Turtle Mountains, LLC; Boulder Black Diamond, LLC; Mint House, LLC; Thunder Avenue,  
11 LLC; University & Folsom, LLC; Boulder Creek Internet Solutions, Inc.; Walnut Street  
12 Marketing, Inc.; Snow Sale, LLC; Brand Force, LLC; Wild Farms, LLC; Salamonie River, LLC;  
13 Indigo Systems, LLC; Night Watch Group, LLC; Newport Crossing, LLC; Greenville Creek,  
14 LLC; Brookville Lane, LLC; Anasazi Management Partners, LLC; Honey Lake, LLC; Condor  
15 Canyon, LLC; Brass Triangle, LLC; Solid Ice, LLC; Sandstone Beach, LLC; Desert Gecko,  
16 LLC; Blizzardwhite, LLC; Action Pro White, LLC; First Class Whitening, LLC; Spark  
17 Whitening, LLC; Titanwhite, LLC; Dental Pro At Home, LLC; Smile Pro Direct, LLC; Circle of  
18 Youth Skincare, LLC; DermaGlam, LLC; Sedona Beauty Secrets, LLC; Bellaathome, LLC;  
19 SkinnyIQ, LLC; Body Tropical, LLC; and each of their subsidiaries, affiliates, successors, and  
20 assigns.

21       F.       **“Defendant(s)”** means Corporate Defendants, Blair McNea, Danielle Foss, and  
22 Jennifer Johnson, individually, collectively, or in any combination.

23       G.       **“Settling Defendant”** means Defendant Danielle Foss.

24       H.       **“Negative Option Feature”** means, in an offer or agreement to sell or provide  
25 any good or service, a provision under which the consumer’s silence or failure to take affirmative  
26 action to reject a good or service or to cancel the agreement is interpreted by the seller or  
27 provider as acceptance or continuing acceptance of the offer.

28

1 I. "Telemarketing" means any plan, program, or campaign which is conducted to  
2 induce the purchase of any product, service, plan, or program by use of one or more telephones,  
3 and which involves a telephone call, whether or not covered by the Telemarketing Sales Rule, 16  
4 C.F.R. Part 310.

5 **ORDER**

6 **I. PROHIBITION AGAINST MISREPRESENTATIONS**

7 **IT IS THEREFORE ORDERED** that Settling Defendant, her officers, agents,  
8 employees, and attorneys, and all other persons in active concert or participation with any of  
9 them, who receive actual notice of this Order, whether acting directly or indirectly, in connection  
10 with promoting or offering for sale any good or service, are permanently restrained and enjoined  
11 from misrepresenting or assisting others in misrepresenting, expressly or by implication:

12 A. Any cost to the consumer to purchase, receive, use, or return the initial good or  
13 service;

14 B. That the consumer will not be Charged for any good or service;

15 C. That a good or service is offered on a "free," "risk free," "trial," "sample,"  
16 "bonus," "gift," "no obligation," or "discounted" basis, or words of similar import, denoting or  
17 implying the absence of an obligation on the part of the recipient of the offer to affirmatively act  
18 in order to avoid Charges, including where a Charge will be assessed pursuant to the offer unless  
19 the consumer takes affirmative steps to prevent or stop such a Charge;

20 D. That the consumer can obtain a good or service for a processing, service,  
21 shipping, handling, or administrative fee with no further obligation;

22 E. The purpose(s) for which the consumer's Billing Information will be used;

23 F. The date by which the consumer will incur any obligation or be Charged unless  
24 the consumer takes an affirmative action on the Negative Option Feature;

25 G. That a transaction has been authorized by the consumer;

26 H. The number of transactions that will be completed or the number of products that  
27 will be purchased;

28



1 I. Any material aspect of the nature or terms of a refund, cancellation, exchange, or  
2 repurchase policy for the good or service; or

3 J. Any other material fact.

4 Compliance with this Section is separate from, and in addition to, the disclosures required  
5 by Sections II and III, *infra*.

6 **II. REQUIRED DISCLOSURES RELATING TO NEGATIVE OPTION FEATURES**

7 **IT IS FURTHER ORDERED** that Settling Defendant, her officers, agents, employees,  
8 and attorneys, and all other persons in active concert or participation with any of them, who  
9 receive actual notice of this Order, whether acting directly or indirectly, in connection with  
10 promoting or offering for sale any good or service with a Negative Option Feature, are  
11 permanently restrained and enjoined from:

12 A. Representing directly or indirectly, expressly or by implication, that any good or  
13 service that includes a Negative Option Feature is being offered on a free, trial, no obligation,  
14 reduced, or discounted basis, without disclosing Clearly and Conspicuously, and immediately  
15 adjacent to, any such representation:

16 1. The extent to which the consumer must take affirmative action(s) to avoid  
17 any Charges: a) for the offered good or service, b) of an increased amount after the trial  
18 or promotional period ends, and c) on a recurring basis;

19 2. The total cost (or range of costs) the consumer will be Charged and, if  
20 applicable, the frequency of such Charges unless the consumer timely takes steps to  
21 prevent or stop such Charges; and

22 3. The deadline(s) (by date or frequency) by which the consumer must  
23 affirmatively act in order to stop all recurring Charges.

24 B. Obtaining Billing Information from a consumer for any transaction involving a  
25 good or service that includes a Negative Option Feature, without first disclosing Clearly and  
26 Conspicuously, and immediately adjacent to where a consumer provides Billing Information:

1           1.       The extent to which the consumer must take affirmative action(s) to avoid  
2 any Charges: a) for the offered good or service, b) of an increased amount after the trial  
3 or promotional period ends, and c) on a recurring basis;

4           2.       The total cost (or range of costs) the consumer will be Charged, the date  
5 the initial Charge will be submitted for payment, and, if applicable, the frequency of such  
6 Charges unless the consumer timely takes affirmative steps to prevent or stop such  
7 Charges;

8           3.       The deadline(s) (by date or frequency) by which the consumer must  
9 affirmatively act in order to stop all recurring Charges;

10          4.       The name of the seller or provider of the good or service and, if the name  
11 of the seller or provider will not appear on billing statements, the billing descriptor that  
12 will appear on such statements;

13          5.       A description of the good or service;

14          6.       Any Charge or cost for which the consumer is responsible in connection  
15 with the cancellation of an order or the return of a good;

16          7.       The simple cancellation mechanism to stop any recurring Charges, as  
17 required by Section IV.

18 C.       Failing to send the consumer:

19          1.       Immediately after the consumer's submission of an online order, written  
20 confirmation of the transaction by email. The email must Clearly and Conspicuously  
21 disclose all the information required by Subsection II.B, and contain a subject line  
22 reading "Order Confirmation" along with the name of the product or service, and no  
23 additional information; or

24          2.       Within two (2) days after receipt of the consumer's order by mail or  
25 telephone, a written confirmation of the transaction, either by email or first class mail.  
26 The email or letter must Clearly and Conspicuously disclose all the information required  
27 by Subsection II.B. The subject line of the email must Clearly and Conspicuously state  
28

1 “Order Confirmation” along with the name of the product or service, and nothing else.

2 The outside of the envelope must Clearly and Conspicuously state “Order Confirmation”  
3 along with the name of the product or service, and no additional information other than  
4 the consumer’s address, the seller’s return address, and postage.

5 **III. OBTAINING EXPRESS INFORMED CONSENT**

6 **IT IS FURTHER ORDERED** that Settling Defendant, her officers, agents, employees,  
7 attorneys, and all other persons in active concert or participation with any of them, who receive  
8 actual notice of this Order, whether acting directly or indirectly, in connection with promoting or  
9 offering for sale any good or service with a Negative Option Feature, are permanently restrained  
10 and enjoined from using Billing Information to obtain payment from a consumer, unless Settling  
11 Defendant first obtains the express informed consent of the consumer to do so. To obtain  
12 express informed consent, Settling Defendant must:

13 A. For all written offers (including over the Internet or other web-based applications  
14 or services), obtain consent through a check box, signature, or other substantially similar method,  
15 which the consumer must affirmatively select or sign to accept the Negative Option Feature, and  
16 no other portion of the offer. Settling Defendant shall disclose Clearly and Conspicuously, and  
17 immediately adjacent to such check box, signature, or substantially similar method of affirmative  
18 consent, only the following, with no additional information:

19 1. The extent to which the consumer must take affirmative action(s) to avoid  
20 any Charges: a) for the offered good or service, b) of an increased amount after the trial  
21 or promotional period ends, and c) on a recurring basis;

22 2. The total cost (or range of costs) the consumer will be Charged and, if  
23 applicable, the frequency of such Charges unless the consumer timely takes affirmative  
24 steps to prevent or stop such Charges; and

25 3. The deadline(s) (by date or frequency) by which the consumer must  
26 affirmatively act in order to stop all recurring Charges.

27 B. For all oral offers, prior to obtaining any Billing Information from the consumer:  
28

1           1.       Clearly and Conspicuously disclose the information contained in  
2       Subsection II.B; and

3           2.       Obtain affirmative unambiguous express oral confirmation that the  
4       consumer: a) consents to being Charged for any good or service, including providing, at  
5       a minimum, the last four (4) digits of the consumer's account number to be Charged, b)  
6       understands that the transaction includes a Negative Option Feature, and c) understands  
7       the specific affirmative steps the consumer must take to prevent or stop further Charges.

8       For transactions conducted through Telemarketing, Settling Defendant shall maintain for  
9       three (3) years from the date of each transaction an unedited voice recording of the entire  
10       transaction, including the prescribed statements set out in Subsection III.B. Each recording must  
11       be retrievable by date and by the consumer's name, telephone number, or Billing Information,  
12       and must be provided upon request to the consumer, the consumer's bank, or any law  
13       enforcement entity.

14           **IV.     SIMPLE MECHANISM TO CANCEL NEGATIVE OPTION FEATURE**

15           **IT IS FURTHER ORDERED** that Settling Defendant, her officers, agents, employees,  
16       attorneys, and all other persons in active concert or participation with any of them, who receive  
17       actual notice of this Order, whether acting directly or indirectly, in connection with promoting or  
18       offering for sale any good or service with a Negative Option Feature, are permanently restrained  
19       and enjoined from failing to provide a simple mechanism for the consumer to: (1) avoid being  
20       Charged, or Charged an increased amount, for the good or service, and (2) immediately stop any  
21       recurring Charges. Such mechanism must not be difficult, costly, confusing, or time consuming,  
22       and must be at least as simple as the mechanism the consumer used to initiate the Charge(s). In  
23       addition:

24           A.       For consumers who entered into the agreement to purchase a good or service  
25       including a Negative Option Feature over the Internet or through other web-based applications or  
26       services, Settling Defendant must provide a mechanism, accessible over the Internet or through  
27  
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1 such other web-based application or service that consumers can easily use to cancel the product  
2 or service and to immediately stop all further Charges.

3 B. For consumers who entered into the agreement to purchase a good or service  
4 including a Negative Option Feature through an oral offer and acceptance, Settling Defendant  
5 must maintain a telephone number and a postal address that consumers can easily use to cancel  
6 the product or service and to immediately stop all further Charges. Settling Defendant must  
7 assure that all calls to this telephone number shall be answered during normal business hours and  
8 that mail to the postal address is retrieved regularly.

9 **V. MONETARY JUDGMENT AND PARTIAL SUSPENSION**

10 **IT IS FURTHER ORDERED** that:

11 A. Judgment in the amount of Ninety Two Million Eleven Thousand Six Hundred  
12 and One Dollars and Forty-Two Cents (\$92,011,601.42) is entered in favor of the Commission  
13 against Settling Defendant, jointly and severally, as equitable monetary relief. Upon transfer of  
14 the assets set forth in Subsections B and C, the remainder of the judgment is suspended, subject  
15 to the Subsections below.

16 B. Within seven (7) days after entry of this Order, Settling Defendant is ordered to  
17 pay to the Commission, by electronic fund transfer in accordance with instructions previously  
18 provided by a representative of the Commission the following assets:

19 1. Settling Defendant must transfer to the Commission all funds in Account  
20 Number ending in 0014 at Blue Federal Credit Union in the name of Danielle C. Foss;  
21 and

22 2. Settling Defendant must wire the sum of Thirty Thousand Four Hundred  
23 and Ninety Two Dollars and Twenty Nine Cents (\$30,492.29), which her counsel holds  
24 in escrow for no purpose other than payment to the Commission.

25 C. Settling Defendant grants to the Commission all rights and claims she has to any  
26 assets currently in the possession, custody or control of the Receiver, and to any other Assets of  
27 any Corporate Defendant.

1 D. The Commission's agreement to the suspension of the judgment is expressly  
2 premised upon the truthfulness, accuracy, and completeness of Settling Defendant's sworn  
3 financial statements and related documents (collectively, "financial representations) submitted to  
4 the Commission, namely, the Financial Statement of Individual Defendant Danielle Foss signed  
5 on July 31, 2017, including attachments.

6 E. The suspension of the judgment will be lifted as to Settling Defendant if, upon  
7 motion by the Commission, the Court finds that Settling Defendant failed to disclose any  
8 material asset, materially misstated the value of any asset, or made any other material  
9 misstatement or omission in the financial representations identified above.

10 F. If the suspension of the judgment is lifted, the judgment becomes immediately  
11 due as to Settling Defendant in the amount specified in Subsection A above (which the parties  
12 stipulate only for purposes of this Section represents consumer injury alleged in the Complaint),  
13 less any payment previously made pursuant to this Section, or by any other Defendant in this  
14 action, in satisfaction of a monetary judgment, plus interest computed from the date of entry of  
15 this Order.

## 16 VI. ADDITIONAL MONETARY PROVISIONS

17 **IT IS FURTHER ORDERED** that:

18 A. Settling Defendant relinquishes dominion and all legal and equitable right, title,  
19 and interest in all assets transferred pursuant to this Order and may not seek the return of any  
20 assets.

21 B. The facts alleged in the Complaint will be taken as true, without further proof, in  
22 any subsequent civil litigation by or on behalf of the Commission, including in a proceeding to  
23 enforce its rights to any payment or monetary judgment pursuant to this Order, such as a  
24 nondischargeability complaint in any bankruptcy case.

25 C. The facts alleged in the Complaint establish all elements necessary to sustain an  
26 action by the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C.  
27 § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

28

1 D. Settling Defendant acknowledges that her Taxpayer Identification Numbers  
2 (Social Security Numbers or Employer Identification Numbers), which Settling Defendant  
3 previously submitted to the Commission, may be used for collecting and reporting on any  
4 delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

5 E. All money paid to the Commission pursuant to this Order may be deposited into a  
6 fund administered by the Commission or its designee to be used for equitable relief, including  
7 consumer redress and any attendant expenses for the administration of any redress fund. If a  
8 representative of the Commission decides that direct redress to consumers is wholly or partially  
9 impracticable or money remains after redress is completed, the Commission may apply any  
10 remaining money for such other equitable relief (including consumer information remedies) as it  
11 determines to be reasonably related to Defendants' practices alleged in the Complaint. Any  
12 money not used for such equitable relief is to be deposited to the U.S. Treasury as disgorgement.  
13 Settling Defendant has no right to challenge any actions the Commission or its representatives  
14 may take pursuant to this Subsection.

#### 15 VII. LIFTING OF ASSET FREEZE

16 **IT IS FURTHER ORDERED** that the freeze against the assets of Settling Defendant  
17 pursuant to the July 25, 2017 Temporary Restraining Order [ECF No. 16], the August 3, 2017  
18 Order to Extend the Temporary Restraining Order and Continue Preliminary Injunction Hearing  
19 and Response Deadlines [ECF No. 18], and the September 7, 2017 Stipulated Preliminary  
20 Injunction with Asset Freeze and Other Equitable Relief [ECF No. 59] shall be lifted for the sole  
21 purpose of transferring assets pursuant to this Order, and shall be dissolved upon the transfer of  
22 all such assets.

#### 23 VIII. CUSTOMER INFORMATION

24 **IT IS THEREFORE ORDERED** that Settling Defendant, her officers, agents,  
25 employees, and attorneys, and all other persons in active concert or participation with any of  
26 them, who receive actual notice of this Order, are permanently restrained and enjoined from  
27 directly or indirectly:  
28







1           5.       identify all of Settling Defendant's businesses by all of their names,  
2 telephone numbers, and physical, postal, email, and Internet addresses;

3           6.       describe the activities of each business, including the goods and services  
4 offered, the means of advertising, marketing, and sales, and the involvement of any other  
5 Defendant (which Settling Defendant must describe if she knows or should know due to  
6 her own involvement);

7           7.       describe in detail whether and how Settling Defendant is in compliance  
8 with each Section of this Order; and

9           8.       provide a copy of each Order Acknowledgment obtained pursuant to this  
10 Order, unless previously submitted to the Commission.

11        B.       For 10 years after entry of this Order, Settling Defendant must submit a  
12 compliance notice, sworn under penalty of perjury, within 14 days of any change in the  
13 following:

14           1.       name, including aliases or fictitious names, or residence address;

15           2.       title or role in any business activity, including any business for which  
16 Settling Defendant performs services whether as an employee or otherwise and any entity  
17 in which Settling Defendant has any ownership interest, and identify the name, physical  
18 address, and any Internet address of the business or entity;

19           3.       any designated point of contact; or

20           4.       the structure of any entity that Settling Defendant has any ownership  
21 interest in or controls directly or indirectly that may affect compliance obligations arising  
22 under this Order, including: creation, merger, sale, or dissolution of the entity or any  
23 subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

24        C.       Settling Defendant must submit to the Commission notice of the filing of any  
25 bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Defendant  
26 within 14 days of its filing.

1 D. Any submission to the Commission required by this Order to be sworn under  
2 penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by  
3 concluding: “I declare under penalty of perjury under the laws of the United States of America  
4 that the foregoing is true and correct. Executed on: \_\_\_\_\_” and supplying the date, signatory’s  
5 full name, title (if applicable), and signature.

6 E. Unless otherwise directed by a Commission representative in writing, all  
7 submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or  
8 sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement,  
9 Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW,  
10 Washington, DC 20580. The subject line must begin: FTC v. Danielle Foss, X170048.

## 11 XII. RECORDKEEPING

12 **IT IS FURTHER ORDERED** that Settling Defendant must create certain records for 10  
13 years after entry of the Order, and retain each such record for 5 years. Specifically, Settling  
14 Defendant for any business that she, individually or collectively with any other Defendants, is a  
15 majority owner or controls directly or indirectly, must create and retain the following records:

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

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

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

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

24 E. a copy of each unique advertisement or other marketing material.  
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1 **XIII. COMPLIANCE MONITORING**

2 **IT IS FURTHER ORDERED** that, for the purpose of monitoring Settling Defendant's  
3 compliance with this Order, including the financial representations upon which part of the  
4 judgment was suspended and any failure to transfer any assets as required by this Order:

5 A. Within 14 days of receipt of a written request from a representative of the  
6 Commission, Settling Defendant must: submit additional compliance reports or other requested  
7 information, which must be sworn under penalty of perjury; appear for depositions; and produce  
8 documents for inspection and copying. The Commission is also authorized to obtain discovery,  
9 without further leave of court, using any of the procedures prescribed by Federal Rules of Civil  
10 Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

11 B. For matters concerning this Order, the Commission is authorized to communicate  
12 directly with Settling Defendant. Settling Defendant must permit representatives of the  
13 Commission to interview any employee or other person affiliated with any Defendant who has  
14 agreed to such an interview. The person interviewed may have counsel present.

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

20 D. Upon written request from a representative of the Commission, any consumer  
21 reporting agency must furnish consumer reports concerning Settling Defendant, pursuant to  
22 Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(1).

23 **XIV. RETENTION OF JURISDICTION**

24 **IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this matter for  
25 all purposes.

26 **IT IS SO ORDERED.**

27 SO STIPULATED

28  4/10/2018  
UNITED STATES DISTRICT JUDGE

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**FOR THE PLAINTIFF FEDERAL TRADE COMMISSION:**

*Sarah Waldrop*

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**DEFENDANT DANIELLE FOSS**

*Danielle Foss*

DANIELLE FOSS

**IT IS SO ORDERED:**

\_\_\_\_\_  
UNITED STATES DISTRICT JUDGE

DATED: \_\_\_\_\_