

1 ALDEN F. ABBOTT
General Counsel
2 ADAM M. WESOLOWSKI
GREGORY A. ASHE
3 Federal Trade Commission
600 Pennsylvania Avenue NW
4 Washington, DC 20580
Telephone: 202-326-3068 (Wesolowski)
5 Telephone: 202-326-3719 (Ashe)
6 Facsimile: 202-326-3768
Email: awesolowski@ftc.gov, gashe@ftc.gov

7 DAYLE ELIESON
8 United States Attorney
BLAINE T. WELSH
9 Assistant United States Attorney
10 Nevada Bar No. 4790
501 Las Vegas Blvd. South, Suite 1100
11 Las Vegas, Nevada 89101
Phone: (702) 388-6336
12 Facsimile: (702) 388-6787

13 Attorneys for Plaintiff

14
15 **UNITED STATES DISTRICT COURT**
16 **DISTRICT OF NEVADA**

17 **FEDERAL TRADE COMMISSION,**

18 Plaintiff,

19 v.

20 **CONSUMER DEFENSE, LLC, et al.,**

21 Defendants.
22

Case No. 2:18-cv-00030-JCM-PAL

**STIPULATED ORDER FOR
PERMANENT INJUNCTION AND
MONETARY JUDGMENT AS TO
DEFENDANT BENJAMIN
HORTON**

23 Plaintiff, Federal Trade Commission (“FTC”), commenced this civil action on January 8,
24 2018, by filing its Complaint (ECF No. 1) seeking a permanent injunction and other equitable
25 relief pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and the 2009 Omnibus
26 Appropriations Act, Public Law 111-8, Section 626, 123 Stat. 524, 678 (Mar. 11, 2009), as
27

1 clarified by the Credit Card Accountability Responsibility and Disclosure Act of 2009, Public
2 Law 111-24, Section 511, 123 Stat. 1734, 1763-64 (May 22, 2009), and amended by the Dodd-
3 Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, Section 1097, 124
4 Stat. 1376, 2102-03 (July 21, 2010), 12 U.S.C. § 5538. On motion by the FTC, on January 10,
5 2018, the Court entered an *ex parte* Temporary Restraining Order with asset freeze, appointment
6 of receiver, and other equitable relief against Defendants (ECF No. 12). On February 20, 2018,
7 the Court entered a Preliminary Injunction against Defendants. (ECF No. 55). Now, the FTC
8 and the Receiver, by and through their undersigned counsel, and Defendant Benjamin Horton
9 *pro se* stipulate and agree to the entry of this Stipulated Final Order for Permanent Injunction and
10 Monetary Judgment (“Order”) to resolve all matters in dispute in this action between them.

11
12 **FINDINGS**

13 By stipulation of the parties, the Court finds as follows:

- 14 1. This Court has jurisdiction over this matter.
- 15 2. The Complaint charges that Defendant Horton participated in deceptive acts or practices
16 in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, and the Mortgage Assistance
17 Relief Services Rule (“MARS Rule”), 12 C.F.R. Part 1015, in connection with the
18 marketing and sale of mortgage assistance relief services.
- 19 3. Defendant Horton neither admits nor denies any of the allegations in the Complaint,
20 except as specifically stated in this Order. Only for purposes of this action, Defendant
21 Horton admits the facts necessary to establish jurisdiction.
- 22 4. Defendant Horton waives any claim that he may have under the Equal Access to Justice
23 Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this
24 Order, and agrees to bear his own costs and attorney fees.
25
26
27

1 5. Defendant Horton and the FTC waive all rights to appeal or otherwise challenge or
2 contest the validity of this Order.

3 6. Entry of this Order is in the public interest.

4 **DEFINITIONS**

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

6 A. **“Assisting others”** includes:

- 7 1. performing customer service functions, including receiving or responding to consumer
8 complaints;
- 9 2. formulating or providing, or arranging for the formulation or provision of, any
10 advertising or marketing material, including any telephone sales script, direct mail
11 solicitation, or the design, text, or use of images of any Internet website, email, or other
12 electronic communication;
- 13 3. formulating or providing, or arranging for the formulation or provision of, any marketing
14 support material or service, including web or Internet Protocol addresses or domain name
15 registration for any Internet websites, affiliate marketing services, or media placement
16 services;
- 17 4. providing names of, or assisting in the generation of, potential customers;
- 18 5. performing marketing, billing, or payment services of any kind; or
- 19 6. acting or serving as an owner, officer, director, manager, or principal of any entity.

20 B. **“Clear(ly) and conspicuous(ly)”** means that a required disclosure is difficult to miss (i.e.,
21 easily noticeable) and easily understandable by ordinary consumers, including in all of the
22 following ways:

- 1 1. In any communication that is solely visual or solely audible, the disclosure must be made
2 through the same means through which the communication is presented. In any
3 communication made through both visual and audible means, such as a television
4 advertisement, the disclosure must be presented simultaneously in both the visual and
5 audible portions of the communication even if the representation requiring the disclosure
6 is made in only one means.
- 7 2. A visual disclosure, by its size, contrast, location, the length of time it appears, and other
8 characteristics, must stand out from any accompanying text or other visual elements so
9 that it is easily noticed, read, and understood.
- 10 3. An audible disclosure, including by telephone or streaming video, must be delivered in a
11 volume, speed, and cadence sufficient for ordinary consumers to easily hear and
12 understand it.
- 13 4. In any communication using an interactive electronic medium, such as the Internet or
14 software, the disclosure must be unavoidable.
- 15 5. The disclosure must use diction and syntax understandable to ordinary consumers and
16 must appear in each language in which the representation that requires the disclosure
17 appears.
- 18 6. The disclosure must comply with these requirements in each medium through which it is
19 received, including all electronic devices and face-to-face communications.
- 20 7. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything
21 else in the communication.
- 22
- 23
- 24

25 C. “**Defendants**” means all of the Individual Defendants and the Corporate Defendants,
26 individually, collectively, or in any combination. “**Corporate Defendants**” means
27

1 Consumer Defense, LLC (a Nevada LLC); Consumer Link, Inc.; Preferred Law, PLLC;
2 American Home Loan Counselors; American Home Loans, LLC; Consumer Defense Group,
3 LLC (f/k/a Modification Review Board, LLC); Consumer Defense, LLC (a Utah LLC);
4 Brown Legal, Inc.; AM Property Management, LLC; FMG Partners, LLC; Zinly, LLC, and
5 their successors and assigns. **“Individual Defendants”** means Jonathan P. Hanley, Benjamin
6 R. Horton, and Sandra X. Hanley.

7
8 D. **“Financial product or service”** means any product, service, plan, or program represented,
9 expressly or by implication, to:

- 10 1. provide any consumer, arrange for any consumer to receive, or assist any consumer in
11 receiving, a loan or other extension of credit;
12 2. provide any consumer, arrange for any consumer to receive, or assist any consumer in
13 receiving, credit, debit, or stored value cards;
14 3. improve, repair, or arrange to improve or repair, any consumer’s credit record, credit
15 history, or credit rating; or
16 4. provide advice or assistance to improve any consumer’s credit record, credit history, or
17 credit rating.
18

19 E. **“Person”** means any individual, group, unincorporated association, limited or general
20 partnership, corporation, or other business entity.

21 F. **“Secured or unsecured debt relief product or service”** means:

- 22 1. With respect to any mortgage, loan, debt, or obligation between a person and one or more
23 secured or unsecured creditors or debt collectors, any product, service, plan, or program
24 represented, expressly or by implication, to:
25
26
27

- 1 a. stop, prevent, or postpone any mortgage or deed of foreclosure sale for a person's
2 dwelling, any other sale of collateral, any repossession of a person's dwelling or other
3 collateral, or otherwise save a person's dwelling or other collateral from foreclosure
4 or repossession;
- 5 b. negotiate, obtain, or arrange a modification, or renegotiate, settle, or in any way alter
6 any terms of the mortgage, loan, debt, or obligation, including a reduction in the
7 amount of interest, principal balance, monthly payments, or fees owed by a person to
8 a secured or unsecured creditor or debt collector;
- 9 c. obtain any forbearance or modification in the timing of payments from any secured or
10 unsecured holder or servicer of any mortgage, loan, debt, or obligation;
- 11 d. negotiate, obtain, or arrange any extension of the period of time within which a
12 person may (i) cure his or her default on the mortgage, loan, debt, or obligation, (ii)
13 reinstate his or her mortgage, loan, debt, or obligation, (iii) redeem a dwelling or
14 other collateral, or (iv) exercise any right to reinstate the mortgage, loan, debt, or
15 obligation or redeem a dwelling or other collateral;
- 16 e. obtain any waiver of an acceleration clause or balloon payment contained in any
17 promissory note or contract secured by any dwelling or other collateral; or
- 18 f. negotiate, obtain, or arrange (i) a short sale of a dwelling or other collateral, (ii) a
19 deed-in-lieu of foreclosure, or (iii) any other disposition of a mortgage, loan, debt, or
20 obligation other than a sale to a third party that is not the secured or unsecured loan
21 holder.
22
23
24

25 The foregoing shall include any manner of claimed assistance, including auditing or
26 examining a person's application for the mortgage, loan, debt, or obligation.
27

- 1 2. With respect to any loan, debt, or obligation between a person and one or more unsecured
2 creditors or debt collectors, any product, service, plan, or program represented, expressly
3 or by implication, to:
- 4 a. repay one or more unsecured loans, debts, or obligations; or
 - 5 b. combine unsecured loans, debts, or obligations into one or more new loans, debts, or
6 obligations.
- 7

8 **ORDER**

9 **BAN ON SECURED AND UNSECURED DEBT RELIEF PRODUCTS AND SERVICES**

10 **I. IT THEREFORE IS ORDERED** that Defendant Horton is permanently restrained and
11 enjoined from advertising, marketing, promoting, offering for sale, or selling, or assisting
12 others in the advertising, marketing, promoting, offering for sale, or selling, of any
13 secured or unsecured debt relief product or service. *Provided, however,* that this Section
14 I shall not prohibit Defendant Horton, in any jurisdiction where he is licensed to practice
15 law, from directly rendering routine legal services (1) to clients with whom he has an
16 attorney-client relationship in connection with new or existing bankruptcy proceedings or
17 estate planning, or (2) in connection with the closing and execution of real estate
18 transactions. *Provided, further,* that this Section I shall not be construed to limit the
19 licensing or regulatory powers of any federal, state, or local government agency or state
20 bar.
21

22 **PROHIBITION AGAINST MISREPRESENTATIONS RELATING TO FINANCIAL**
23 **PRODUCTS AND SERVICES**

24 **II. IT IS FURTHER ORDERED** that Defendant Horton, his officers, agents, employees,
25 and attorneys, and all other persons in active concert or participation with any of them,
26 who receive actual notice of this Order, whether acting directly or indirectly, in
27

1 connection with the advertising, marketing, promoting, offering for sale, or selling of any
2 financial product or service, are permanently restrained and enjoined from
3 misrepresenting, or assisting others in misrepresenting, expressly or by implication:

- 4 A. the terms or rates that are available for any loan or other extension of credit, including:
- 5 1. closing costs or other fees;
 - 6 2. the payment schedule, monthly payment amount(s), any balloon payment, or other
7 payment terms;
 - 8 3. the interest rate(s), annual percentage rate(s), or finance charge(s), and whether they
9 are fixed or adjustable;
 - 10 4. the loan amount, credit amount, draw amount, or outstanding balance; the loan term,
11 draw period, or maturity; or any other term of credit;
 - 12 5. the amount of cash to be disbursed to the borrower out of the proceeds, or the amount
13 of cash to be disbursed on behalf of the borrower to any third parties;
 - 14 6. whether any specified minimum payment amount covers both interest and principal,
15 and whether the credit has or can result in negative amortization; or
 - 16 7. that the credit does not have a prepayment penalty or whether subsequent refinancing
17 may trigger a prepayment penalty and/or other fees;
- 18 B. the ability to improve or otherwise affect a consumer's credit record, credit history, credit
19 rating, or ability to obtain credit, including that a consumer's credit record, credit history,
20 credit rating, or ability to obtain credit can be improved by permanently removing
21 current, accurate negative information from the consumer's credit record or history; or
- 22 C. that a consumer will receive legal representation; or
- 23
24
25
26
27

1 D. any other fact material to consumers concerning any good or service, such as: the total
2 costs; any material restrictions, limitations, or conditions; or any material aspect of its
3 performance, efficacy, nature, or central characteristics.

4 **PROHIBITION AGAINST MISREPRESENTATIONS RELATING TO ANY**
5 **PRODUCTS OR SERVICES**

6 **III. IT IS FURTHER ORDERED** that Defendant Horton, his officers, agents, employees,
7 and attorneys, and all other persons in active concert or participation with any of them,
8 who receive actual notice of this Order, whether acting directly or indirectly, in
9 connection with the advertising, marketing, promoting, offering for sale, or selling of any
10 product, service, plan, or program, are permanently restrained and enjoined from
11 misrepresenting, or assisting others in misrepresenting, expressly or by implication:
12

- 13 A. any material aspect of the nature or terms of any refund, cancellation, exchange, or
14 repurchase policy, including the likelihood of a consumer obtaining a full or partial
15 refund, or the circumstances in which a full or partial refund will be granted to the
16 consumer;
- 17 B. that any person is affiliated with, endorsed or approved by, or otherwise connected to any
18 other person; government entity; public, non-profit, or other non-commercial program; or
19 any other program;
- 20 C. the nature, expertise, position, or job title of any person who provides any product,
21 service, plan, or program;
- 22 D. the person who will provide any product, service, plan, or program to any consumer;
- 23 E. that any person providing a testimonial has purchased, received, or used the product,
24 service, plan, or program;
25
26
27

- 1 F. that the experience represented in a testimonial of the product, service, plan, or program
2 represents the person's actual experience resulting from the use of the product, service,
3 plan, or program under the circumstances depicted in the advertisement; or
4 G. any other fact material to consumers concerning any good or service, such as: the total
5 costs; any material restrictions, limitations, or conditions; or any material aspect of its
6 performance, efficacy, nature, or central characteristics.
7

8 **PROHIBITION AGAINST UNSUBSTANTIATED CLAIMS**

- 9 **IV. IT IS FURTHER ORDERED** that Defendant Horton, his officers, agents, employees,
10 and attorneys, and all other persons in active concert or participation with any of them,
11 who receive actual notice of this Order, whether acting directly or indirectly, in
12 connection with the sale of any financial product or service, are permanently restrained
13 and enjoined from making any representation or assisting others in making any
14 representation, expressly or by implication, about the benefits, performance, or efficacy
15 of any financial product or service, unless the representation is non-misleading, and, at
16 the time such representation is made, Defendant Horton possesses and relies upon
17 competent and reliable evidence that is sufficient in quality and quantity based on
18 standards generally accepted in the relevant fields, when considered in light of the entire
19 body of relevant and reliable evidence, to substantiate that the representation is true.
20

21 **MONETARY JUDGMENT AND PARTIAL SUSPENSION**

- 22 **V. IT IS FURTHER ORDERED** that:
23
24 A. Judgment in the amount of Fifteen Million Five Hundred Seventy-Seven Thousand Six
25 Hundred Fifty-Five Dollars and Sixty-Three Cents (\$15,577,655.63) is entered in favor of
26
27

1 the FTC against Defendant Horton, jointly and severally with any other Defendant in this
2 action against whom judgment may be entered, as equitable monetary relief.

3 B. The judgment as to Defendant Horton is suspended, subject to the Subsections below.

4 C. Upon entry of this Order, the asset freeze as to Defendant Horton is dissolved.

5 D. The FTC's agreement to the suspension of part of the judgment is expressly premised
6 upon the truthfulness, accuracy, and completeness of Defendant Horton's sworn financial
7 statements and related documents (collectively, "financial representations") submitted to
8 the FTC, namely the Financial Statement of Individual Defendant Benjamin Horton
9 signed on February 20, 2018, including the attachments; and the email transmitted by
10 Defendant Horton to the FTC on March 28, 2018.

11
12 E. The suspension of the judgment will be lifted as to Defendant Horton if, upon motion by
13 the FTC, the Court finds that he failed to disclose any material asset, materially misstated
14 the value of any asset, or made any other material misstatement or omission in the
15 financial representations identified above.

16
17 F. If the suspension of the judgment is lifted, the judgment becomes immediately due as to
18 Defendant Horton in the amount specified in Subsection A. above (which the parties
19 stipulate only for purposes of this Section represents the consumer injury alleged in the
20 Complaint), less any payment previously made pursuant to this Section, plus interest
21 computed from the date of entry of this Order.

22
23 G. Defendant Horton relinquishes dominion and all legal and equitable right, title, and
24 interest in all assets transferred pursuant to this Order and may not seek the return of any
25 assets.

1 H. The facts alleged in the Complaint will be taken as true, without further proof, in any
2 subsequent civil litigation by or on behalf of the FTC, including in a proceeding to
3 enforce its rights to any payment or monetary judgment pursuant to this Order, such as a
4 nondischargeability complaint in any bankruptcy case.

5 I. The facts alleged in the Complaint establish all elements necessary to sustain an action by
6 the FTC pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C.
7 § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

8 J. Defendant Horton acknowledges that his Taxpayer Identification Numbers (Social
9 Security Numbers or Employer Identification Numbers), which he previously submitted
10 to the FTC, may be used for collecting and reporting on any delinquent amount arising
11 out of this Order, in accordance with 31 U.S.C. §7701.

12 K. All money paid to the FTC pursuant to this Order may be deposited into a fund
13 administered by the FTC or its designee to be used for equitable relief, including
14 consumer redress and any attendant expenses for the administration of any redress fund.
15 If a representative of the FTC decides that direct redress to consumers is wholly or
16 partially impracticable or money remains after redress is completed, the FTC may apply
17 any remaining money for such other equitable relief (including consumer information
18 remedies) as it determines to be reasonably related to Defendants' practices alleged in the
19 Complaint. Any money not used for such equitable relief is to be deposited to the U.S.
20 Treasury as disgorgement. Defendant Horton has no right to challenge any actions the
21 FTC or its representatives may take pursuant to this Subsection.
22
23
24

25 **CUSTOMER INFORMATION**
26
27

1 **VI. IT IS FURTHER ORDERED** that Defendant Horton, his officers, agents, employees,
2 and attorneys, and all other persons in active concert or participation with any of them,
3 who receive actual notice of this Order, are permanently restrained and enjoined from
4 directly or indirectly:

- 5 A. failing to provide sufficient customer information to enable the FTC to efficiently
6 administer consumer redress. If a representative of the FTC requests in writing any
7 information related to redress, Defendant Horton must provide it, in the form prescribed
8 by the FTC, within 14 days;
- 9 B. disclosing, using, or benefitting from customer information, including the name, address,
10 telephone number, email address, social security number, other identifying information,
11 or any data that enables access to a customer's account (including a credit card, bank
12 account, or other financial account), that any Defendant obtained prior to entry of this
13 Order in connection with the marketing and sale of mortgage assistance relief services;
14 and
15
16 C. failing to destroy such customer information in all forms in their possession, custody, or
17 control within 30 days after receipt of written direction to do so from a representative of
18 the FTC.
- 19 D. Provided, however, that customer information need not be disposed of, and may be
20 disclosed, to the extent requested by a government agency or required by law, regulation,
21 or court order.
22
23

24 **COOPERATION**

25 **VII. IT IS FURTHER ORDERED** that Defendant Horton must fully cooperate with
26 representatives of the FTC in this case and in any investigation related to or associated
27

1 with the transactions or the occurrences that are the subject of the Complaint. Defendant
2 Horton must provide truthful and complete information, evidence, and testimony.
3 Defendant Horton must appear for interviews, discovery, hearings, trials, and any other
4 proceedings that a FTC representative may reasonably request upon 10 days written
5 notice, or other reasonable notice, at such places and times as a FTC representative may
6 designate, without the service of a subpoena.

7
8 **ORDER ACKNOWLEDGMENTS**

9 **VIII. IT IS FURTHER ORDERED** that Defendant Horton obtain acknowledgments of
10 receipt of this Order:

- 11 A. Defendant Horton, within 7 days of entry of this Order, must submit to the FTC an
12 acknowledgment of receipt of this Order sworn under penalty of perjury.
- 13 B. For 5 years after entry of this Order, Defendant Horton for any business that he,
14 individually or collectively with any other Defendants, is the majority owner or
15 controls directly or indirectly, must deliver a copy of this Order to: (1) all principals,
16 officers, directors, and LLC managers and members; (2) all employees having
17 managerial responsibilities for conduct related to the subject matter of the Order and
18 all agents and representatives who participate in conduct related to the subject matter
19 of the Order; and (3) any business entity resulting from any change in structure as set
20 forth in the Section titled Compliance Reporting. Delivery must occur within 7 days
21 of entry of this Order for current personnel. For all others, delivery must occur before
22 they assume their responsibilities.
23
24
25
26
27

- 1 C. From each individual or entity to which Defendant Horton delivered a copy of this
2 Order, Defendant Horton must obtain, within 30 days, a signed and dated
3 acknowledgment of receipt of this Order.

4 **COMPLIANCE REPORTING**

5 **IX. IT IS FURTHER ORDERED** that Defendant Horton make timely submissions to the
6 FTC:

- 7
8 A. One year after entry of this Order, Defendant Horton must submit a compliance
9 report, sworn under penalty of perjury:

- 10 1. Defendant Horton must: (a) identify the primary physical, postal, and email
11 address and telephone number, as designated points of contact, which
12 representatives of the FTC may use to communicate with him; (b) identify all of
13 his businesses by all of their names, telephone numbers, and physical, postal,
14 email, and Internet addresses; (c) describe the activities of each business,
15 including the goods and services offered, the means of advertising, marketing, and
16 sales, and the involvement of any other Defendant (which Defendant Horton must
17 describe if he knows or should know due to his own involvement); (d) describe in
18 detail whether and how he is in compliance with each Section of this Order; and
19 (e) provide a copy of each Order Acknowledgment obtained pursuant to this
20 Order, unless previously submitted to the FTC.
21
22 2. Additionally, Defendant Horton must: (a) identify all telephone numbers and all
23 physical, postal, email and Internet addresses, including all residences; (b)
24 identify all business activities, including any business for which he performs
25 services whether as an employee or otherwise and any entity in which he has any
26
27

1 ownership interest; and (c) describe in detail his involvement in each such
2 business, including title, role, responsibilities, participation, authority, control,
3 and any ownership.

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

6 1. Defendant Horton must report any change in: (a) any designated point of contact;
7 or (b) the structure of any Corporate Defendant or any entity that he has any
8 ownership interest in or controls directly or indirectly that may affect compliance
9 obligations arising under this Order, including: creation, merger, sale, or
10 dissolution of the entity or any subsidiary, parent, or affiliate that engages in any
11 acts or practices subject to this Order.

12 2. Additionally, Defendant Horton must report any change in: (a) name, including
13 aliases or fictitious name, or residence address; or (b) title or role in any business
14 activity, including any business for which he performs services whether as an
15 employee or otherwise and any entity in which he has any ownership interest, and
16 identify the name, physical address, and any Internet address of the business or
17 entity.
18

19 C. Defendant Horton must submit to the FTC notice of the filing of any bankruptcy
20 petition, insolvency proceeding, or similar proceeding by or against him within 14
21 days of its filing.
22

23 D. Any submission to the FTC required by this Order to be sworn under penalty of
24 perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by
25 concluding: "I declare under penalty of perjury under the laws of the United States of
26
27

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

- 3 E. Unless otherwise directed by a FTC representative in writing, all submissions to the
4 FTC pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight
5 courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau
6 of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW,
7 Washington, DC 20580. The subject line must begin: FTC v. Consumer Defense,
8 X180017.
9

10 RECORDKEEPING

- 11 X. **IT IS FURTHER ORDERED** that Defendant Horton must create certain records for 10
12 years after entry of the Order, and retain each such record for 5 years. Specifically,
13 Defendant Horton for any business that he, individually or collectively with any other
14 Defendants, is a majority owner or controls directly or indirectly, must create and retain
15 the following records:
16

- 17 A. accounting records showing the revenues from all goods or services sold;
18 B. personnel records showing, for each person providing services, whether as an
19 employee or otherwise, that person’s: name; addresses; telephone numbers; job title
20 or position; dates of service; and (if applicable) the reason for termination;
21 C. records of all consumer complaints and refund requests, whether received directly or
22 indirectly, such as through a third party, and any response;
23 D. all records necessary to demonstrate full compliance with each provision of this
24 Order, including all submissions to the FTC; and
25 E. a copy of each unique advertisement or other marketing material.
26
27

COMPLIANCE MONITORING

1
2 **XI. IT IS FURTHER ORDERED** that, for the purpose of monitoring Defendant Horton's
3 compliance with this Order, including the financial representations upon which part of
4 the judgment was suspended, and any failure to transfer any assets as required by this
5 Order:

- 6
7 A. Within 14 days of receipt of a written request from a representative of the FTC,
8 Defendant Horton must: submit additional compliance reports or other requested
9 information, which must be sworn under penalty of perjury; appear for depositions;
10 and produce documents for inspection and copying. The FTC is also authorized to
11 obtain discovery, without further leave of court, using any of the procedures
12 prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic
13 depositions), 31, 33, 34, 36, 45, and 69.
14
15 B. For matters concerning this Order, the FTC is authorized to communicate directly
16 with Defendant Horton. Defendant Horton must permit representatives of the FTC to
17 interview any employee or other person affiliated with him who has agreed to such an
18 interview. The person interviewed may have counsel present.
19
20 C. The FTC may use all other lawful means, including posing, through its
21 representatives as consumers, suppliers, or other individuals or entities, to Defendant
22 Horton or any individual or entity affiliated with Defendant Horton, without the
23 necessity of identification or prior notice. Nothing in this Order limits the FTC's
24 lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15
25 U.S.C. §§ 49, 57b-1.
26
27

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

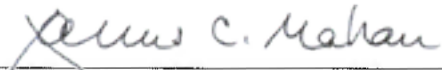
4 **ENTRY OF JUDGMENT**

5 **XII. IT IS FURTHER ORDERED** that there is no just reason for delay of entry of this
6 judgment, and that, pursuant to Federal Rule of Civil Procedure 54(b), the Clerk
7 immediately shall enter this Order as a final judgment as to Defendant Horton.
8

9 **RETENTION OF JURISDICTION**

10 **XIII. IT IS FURTHER ORDERED** that this Court retains jurisdiction of this matter for
11 purposes of construction, modification, and enforcement of this Order.

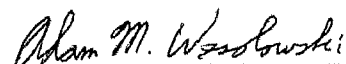
12 **IT IS SO ORDERED.**

13 
14 _____
15 JAMES C. MAHAN
16 UNITED STATES DISTRICT JUDGE

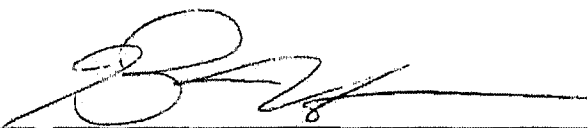
17 Dated: June 5, 2018
18
19
20
21
22
23
24
25
26
27

IT IS SO STIPULATED.

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



ADAM M. WESOLOWSKI
GREGORY A. ASHE
Federal Trade Commission
600 Pennsylvania Avenue NW
Washington, DC 20850
Telephone: 202-326-3068 (Wesolowski)
Telephone: 202-326-3719 (Ashe)
Facsimile: 202-326-3768
Email: awesolowski@ftc.gov; gashe@ftc.gov



BENJAMIN R. HORTON
Defendant *pro se*

DAYLE ELIESON
United States Attorney
BLAINE T. WELSH
Assistant United States Attorney
Nevada Bar No. 4790
501 Las Vegas Blvd. South, Suite 1100
Las Vegas, Nevada 89101
Phone: (702) 388-6336
Facsimile: (702) 388-6787

Attorneys for Plaintiff



ANDREW ROBERTSON
EDWARD CHANG
McNamara Smith LLP
655 West Broadway, Suite 1600
San Diego, CA 92101
Telephone: 619-269-0400
Facsimile: 619-269-0401
Email: arobertson@mcnamarallp.com,
echang@mcnamarallp.com

Attorneys for Thomas McNamara, Court-
appointed Receiver

CERTIFICATE OF SERVICE

Undersigned counsel certifies that on May 31, 2018, **STIPULATED ORDER FOR PERMANENT INJUNCTION AND MONETARY JUDGMENT AS TO DEFENDANT BENJAMIN HORTON** was electronically filed with the Clerk of Court using the CM/ECF system, which will automatically send email notification of such filing to the following attorneys of record:

Abran E. Vigil
Blaine T. Welsh
Gregory A. Ashe
Edward T. Chang
Adam M. Wesolowski
Karra J. Porter
Gregory A. Miles

The undersigned counsel further certifies that the documents will be emailed, overnighted, and/or hand-delivered to the following non-CM/ECF participants:

Andrew Robertson
J.D. Lauritzen
Benjamin Horton (Defendant *pro se*)

/s/ Adam M. Wesolowski
Attorney for Plaintiff Federal Trade Commission