

EXHIBIT 9

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10
11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**
13 **San Jose Division**

14 **Federal Trade Commission,**
15 **Plaintiff,**
16 **v.**
17 **Pricewert LLC d/b/a 3FN.net, Triple Fiber**
18 **Network, APS Telecom and APX Telecom,**
19 **APS Communications, and APS**
20 **Communication,**
Defendant.

Case No. C-09-2407 RMW
PRELIMINARY INJUNCTION

21 Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), pursuant to Section
22 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), has filed a
23 Complaint for Injunctive and Other Equitable Relief, and moved *ex parte* for a temporary
24 restraining order and for an order to show cause why a preliminary injunction should not be
25 granted pursuant to Rule 65(b) of the Federal Rules of Civil Procedure. On June 2, 2009, this
26 Court granted the Commission's motion and entered a Temporary Restraining Order and Order to
27 Show Cause against Defendant Pricewert LLC also d/b/a 3FN.net, Triple Fiber Network, APS
28 Telecom and APX Telecom, APS Communications, and APS Communication (D.E. 12). On
June 5, 2009 the court directed the FTC to submit a proposal for expeditiously addressing the

1 concerns of innocent third parties who claimed to be suffering harm as a result of the Temporary
2 Restraining Order. This request was prompted by written communication to the court by two non-
3 parties. The hearing on the Order to show Cause as to why a preliminary injunction should not
4 issue was held on June 15, 2009. The FTC appeared through its counsel Ethan Arenson and
5 Philip Tumminio. Karl S. Kronenberger of Kronenberger Burgoyne, LLP appeared on behalf of
6 third parties Suren Ter-Saakov and Tsuren LLC. Although the court had received communication
7 from Max Christopher who was identified as "Defendant's authorized representative and
8 interpreter" indicating that counsel for defendant or a representative would appear, no one
9 appeared on behalf of defendant. After reviewing the papers and hearing the comments of
10 counsel, the Court makes the following findings and orders.

11
12 **FINDINGS**

13 The court has considered the pleadings, declarations, exhibits, and memoranda filed in
14 support of the Commission's motion for a preliminary injunction and finds that:

- 15 1. This court has jurisdiction over the subject matter of this case and there is good
16 cause to believe that it will have jurisdiction over all parties hereto; the Complaint
17 states a claim upon which relief may be granted against the Defendant under
18 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) (2006).
- 19 2. There is good cause to believe that Pricewert LLC also d/b/a 3FN.net, Triple Fiber
20 Network, APS Telecom and APX Telecom, APS Communications, and APS
21 Communication (the "Defendant"), has engaged in and is likely to engage in acts or
22 practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) (2006), and
23 that the Commission is, therefore, likely to prevail on the merits of this action;
- 24 3. There is good cause to believe that immediate and irreparable harm will result from
25 the Defendant's ongoing violations of Section 5(a) of the FTC Act unless the
26 Defendant is restrained and enjoined by Order of this court. The evidence set forth
27 in the Commission's Memorandum of Law in Support of *Ex Parte* Motion for
28 Temporary Restraining Order and Order to Show Cause ("TRO Motion"), and the

1 accompanying declarations and exhibits, demonstrates that the Commission is
2 likely to prevail on its claim that Defendant has engaged in unfair acts or practices
3 in violation of Section 5(a) of the FTC Act by: recruiting, distributing and hosting
4 electronic code or content that inflicts harm upon consumers, including, but not
5 limited to, child pornography, botnet command and control servers, spyware,
6 viruses, trojans, and phishing-related sites; and configuring, deploying, and
7 operating botnets. There is good cause to believe that the Defendant will continue
8 to engage in such unlawful actions if not immediately restrained from doing so by
9 Order of this court;

10 4. There is good cause to believe that immediate and irreparable damage to this
11 court's ability to grant effective final relief will result from the sale, transfer, or
12 other disposition or concealment by the Defendant of its assets, business records,
13 or other discoverable evidence. Based on the evidence cited in the Commission's
14 TRO Motion and accompanying declarations and exhibits, the Commission is
15 likely to be able to prove that: (1) the Defendant has operated through a series of
16 maildrops and shell companies, with a principal place of business and its principals
17 located outside of the United States; (2) the Defendant has continued its unlawful
18 operations unabated despite requests from the Internet security community to cease
19 its injurious activities; and (3) the Defendant is engaged in activities that directly
20 violate U.S. law and cause significant harm to consumers;

21 5. There is good cause to believe that the Defendant, which is controlled by
22 individuals outside of the United States, has engaged in illegal activity using Data
23 Centers and Upstream Service Providers based in the United States and that to
24 immediately halt the injury caused by Defendant, such Data Centers and Upstream
25 Service Providers must be ordered to immediately disconnect or to maintain
26 disconnection of Defendant's computing resources from the Internet, prevent the
27 Defendant and others from accessing such computer resources, and prevent the
28 destruction of data located on these computer resources;

- 1 6. Weighing the equities and considering the Plaintiff's likelihood of ultimate
2 success, this Order is in the public interest; and
- 3 7. Fed. R. Civ. P. 65(c) does not require security of the United States or an officer or
4 agency thereof for the issuance of a preliminary injunction.

5 6 DEFINITIONS

7 For the purpose of this order, the following definitions shall apply:

- 8 1. "**Assets**" means any legal or equitable interest in, right to, or claim to, any real,
9 personal, or intellectual property of Defendant or held for the benefit of Defendant
10 wherever located, including, but not limited to, chattel, goods, instruments,
11 equipment, fixtures, general intangibles, effects, leaseholds, contracts, mail or
12 other deliveries, shares of stock, inventory, checks, notes, accounts, credits,
13 receivables (as those terms are defined in the Uniform Commercial Code), cash,
14 and trusts, including but not limited to any other trust held for the benefit of
15 Defendant.
- 16 2. "**Botnet**" means a network of computers that have been compromised by malicious
17 code and surreptitiously programmed to follow instructions issued by a Botnet
18 Command and Control Server.
- 19 3. "**Botnet Command and Control Server**" means a computer or computers used to
20 issue instructions to, or otherwise control, a Botnet.
- 21 4. The term "**Child Pornography**" shall have the same meaning as provided in 18
22 U.S.C. § 2256.
- 23 5. "**Data Center**" means any person or entity that contracts with third parties to house
24 computer servers and associated equipment, and provides the infrastructure to
25 support such equipment, such as power or environmental controls.
- 26 6. "**Day**" shall have the meaning prescribed by and time periods in this Order shall be
27 calculated pursuant to Fed. R. Civ. P. 6(a).

28

- 1 7. **“Defendant”** means Pricewert LLC also d/b/a 3FN.net, Triple Fiber Network,
2 APS Telecom, APX Telecom, APS Communications, APS Communication, and
3 any other names under which it does business, and any subsidiaries, corporations,
4 partnerships, or other entities directly or indirectly owned, managed, or controlled
5 by Pricewert LLC.
- 6 8. **“Document”** is synonymous in meaning and equal in scope to the usage of
7 the term in the Federal Rules of Civil Procedure 34(a), and includes
8 writing, drawings, graphs, charts, Internet sites, Web pages, Web sites,
9 electronic correspondence, including e-mail and instant messages,
10 photographs, audio and video recordings, contracts, accounting data,
11 advertisements (including, but not limited to, advertisements placed on the
12 World Wide Web), FTP Logs, Server Access Logs, USENET Newsgroup
13 postings, World Wide Web pages, books, written or printed records,
14 handwritten notes, telephone logs, telephone scripts, receipt books, ledgers,
15 personal and business canceled checks and check registers, bank
16 statements, appointment books, computer records, and other data
17 compilations from which information can be obtained and translated. A
18 draft or non-identical copy is a separate document within the meaning of
19 the term.
- 20 9. **“Phishing”** means the use of email, Internet web sites, or other means to mimic or
21 copy the appearance of a trustworthy entity for the purpose of duping consumers
22 into disclosing personal information, such as account numbers and passwords.
- 23 10. **“Representatives”** means the following persons or entities who receive actual
24 notice of this preliminary injunction by personal service or otherwise: (1) the
25 Defendant’s officers, agents, servants, employees, and attorneys; and (2) all other
26 persons who are in active concert or participation with Defendant or its officers,
27 agents, servants, employees, or attorneys. A Data Center or Upstream Service
28 Provider that continues to provide services to Defendant after receiving actual

1 notice of this preliminary injunction is a Representative.

2 11. "Spyware" means any type of software that is surreptitiously installed on a
3 computer and, without the consent of the user, could collect information from a
4 computer, could allow third parties to control remotely the use of a computer, or
5 could facilitate botnet communications.

6 12. "Trojan Horse" means a computer program with an apparent or actual useful
7 function that contains additional, undisclosed malicious code, including but not
8 limited to spyware, viruses, or code that facilitates the surreptitious download or
9 installation of other software code.

10 13. "Upstream Service Provider" means any entity that provides the means to
11 connect to the Internet, including, but not limited to, the subleasing of Internet
12 Protocol addresses.

13 14. "Viruses" means computer programs designed to spread from one computer to
14 another and to interfere with the operation of the computers they infect.

15
16 **PROHIBITED BUSINESS ACTIVITIES**

17 **I.**

18 **IT IS THEREFORE ORDERED** that, Defendant and its Representatives are
19 preliminarily restrained and enjoined from recruiting or willingly distributing or hosting Child
20 Pornography, Botnet Command and Control Servers, Spyware, Viruses, Trojan Horses, Phishing-
21 related sites, or similar electronic code or content that inflicts harm upon consumers.

22 **II.**

23 **IT IS FURTHER ORDERED** that Defendant and its Representatives are preliminarily
24 restrained and enjoined from configuring, deploying, operating, or otherwise participating in or
25 otherwise willingly facilitating, any Botnet.

1 **SUSPENSION OF INTERNET CONNECTIVITY**

2 **III.**

3 **IT IS FURTHER ORDERED** that, pending resolution of the merits of this case, that:

4 A. Any Data Center in active concert or participation with and providing services to
5 Defendant or Defendant's officers, agents, servants, or employees shall, if it has not already done
6 so in compliance with the Temporary Restraining Order previously issued in this case, immediately
7 and without prior notification to Defendant or Defendant's officers, agents, servants, or employees,
8 take all reasonable and necessary steps to make inaccessible to the Defendant and all other persons,
9 except as otherwise ordered herein, all computers, servers or electronic data storage devices or
10 media and the content stored thereupon (hereafter "computer resources"), leased, owned or
11 operated by Defendant or Defendant's officers agents, servants, or employees and located on
12 premises owned by, or within the control of, the Data Center and shall, if it has already taken such
13 steps in compliance with the Temporary Restraining Order previously issued in this case, continue
14 to make those computer resources inaccessible to the Defendant and all other persons, except as
15 otherwise ordered herein. Such steps shall, at a minimum, include:

- 16 1. disconnecting such computer resources from the Internet and all other networks;
17 2. securing the area where such computer resources are located in a manner reasonably
18 calculated to deny access to the Defendant and its officers, agents, servants, or
19 employees; and
20 3. if such Data Center restricts access to its facilities by means of access credentials,
21 suspending all access credentials issued to Defendant or Defendant's officers,
22 agents, servants, or employees;

23 B. Any Upstream Service Provider in active concert or participation with and
24 providing services to Defendant or Defendant's officers, agents, servants, or employees shall, if it
25 has not already done so in compliance with the Temporary Restraining Order previously issued in
26 this case, immediately, and without notifying Defendant or Defendant's officers, agents, servants,
27 or employees in advance, take all reasonable and necessary steps to deny Internet connectivity to
28 the Defendant and Defendant's officers, agents, servants, and employees, including, but not limited

1 to, suspending any IP addresses assigned to the Defendant or Defendant's officers, agents, servants,
2 or employees by the Upstream Service Provider, and refraining from reassigning such IP addresses,
3 and shall, if it has already taken such steps in compliance with the Temporary Restraining Order
4 previously issued in this case, continue to deny Internet connectivity to the Defendant and
5 Defendant's officers, agents, servants, and employees;

6 C. Any Data Center or Upstream Service Provider described in subparagraphs A and B
7 above providing services to Defendant or Defendant's officers, agents, servants, or employees,
8 shall preserve and retain documents relating to the Defendant or the Defendant's officers, agents,
9 servants, or employees; and

10 D. Agents of the Commission and other law enforcement agencies are permitted to
11 enter the premises of any of Defendant's Data Centers and Upstream Service Providers described
12 in subparagraph A and B above to serve copies of this Order and to verify that the Data Centers
13 and Upstream Service Providers have taken the reasonable and necessary steps described in sub-
14 paragraphs A and B of this Paragraph.
15 *Provided, however,* nothing in Paragraph III shall be interpreted to deny access to any law
16 enforcement agency granted access pursuant to a court order, search warrant, or other lawful
17 process, or to deny access to any receiver appointed by this court.

18
19 **ASSET FREEZE**

20 **IV.**

21 **IT IS FURTHER ORDERED** that the Defendant and its Representatives are hereby
22 preliminarily restrained and enjoined from:

23 A. Transferring, liquidating, converting, encumbering, pledging, loaning, selling,
24 concealing, dissipating, disbursing, assigning, spending, withdrawing, granting a lien or security
25 interest or other interest in, or otherwise disposing of any funds, real or personal property,
26 accounts, contracts, consumer lists, shares of stock, or other assets, or any interest therein,
27 wherever located, that are: (1) owned or controlled by the Defendant, in whole or in part, for the
28 benefit of the Defendant; (2) in the actual or constructive possession of the Defendant; or (3)

1 owned, controlled by, or in the actual or constructive possession of any corporation, partnership, or
2 other entity directly or indirectly owned, managed, or controlled by the Defendant, including, but
3 not limited to, any assets held by or for, or subject to access by, the Defendant, at any bank or
4 savings and loan institution, or with any broker-dealer, escrow agent, title company, commodity
5 trading company, precious metals dealer, or other financial institution or depository of any kind;
6 and

7 B. Opening or causing to be opened any safe deposit boxes titled in the name of the
8 Defendant, or subject to access by the Defendant.

9 *Provided, however,* that the assets affected by Paragraph IV shall include: (1) all of the
10 assets of the Defendant existing as of the date this Order was entered; and (2) for assets obtained
11 after the date this Order was entered, only those assets of the Defendant that are derived from
12 conduct prohibited in Paragraphs I and II of this Order.

13
14 **FINANCIAL REPORTS AND ACCOUNTING**

15 **V.**

16 **IT IS FURTHER ORDERED** that the Defendant, if it has not already done so in
17 compliance with the Temporary Restraining Order previously issued in this case, shall within five
18 (5) business days of receiving notice of this Order provide the Commission with completed
19 financial statements, verified under oath and accurate as of the date of entry of this Order, on the
20 forms attached to this Order as **Attachment A**.

21
22 **RETENTION OF ASSETS AND PRODUCTION OF RECORDS
BY FINANCIAL INSTITUTIONS**

23 **VI.**

24 **IT IS FURTHER ORDERED** that, any financial or brokerage institution, business entity,
25 or person served with a copy of this Order that holds, controls, or maintains custody of any account
26 or asset of the Defendant, or has held, controlled or maintained custody of any such account or
27 asset at any time prior to the date of entry of this Order, shall:
28

1 A. Hold and retain within its control and prohibit the withdrawal, removal, assignment,
2 transfer, pledge, encumbrance, disbursement, dissipation, conversion, sale, or other disposal of any
3 such asset except by further order of the court; and

4 B. Deny all persons access to any safe deposit box that is:

- 5 1. titled in the name of the Defendant; or
- 6 2. otherwise subject to access by Defendant.

7
8 **FOREIGN ASSET REPATRIATION AND ACCOUNTING**

9 **VII.**

10 **IT IS FURTHER ORDERED** that:

11 A. Defendant and its Representatives shall, if it has not already done so in compliance
12 with the Temporary Restraining Order previously issued in this case, immediately upon service of
13 this Order, or as soon as relevant banking hours permit, transfer to the territory of the United States
14 to a blocked account whose funds cannot be withdrawn without further order of the court all funds
15 and assets in foreign countries held: (1) by Defendant; (2) for its benefit; or (3) under its direct or
16 indirect control, jointly or singly; and

17 B. Defendant shall, if it has not already done so in compliance with the Temporary
18 Restraining Order previously issued in this case, within five (5) business days of receiving notice
19 of this Order provide the Commission with a full accounting, verified under oath and accurate as of
20 the date of this Order, of all funds, documents, and assets outside of the United States which are:
21 (1) titled in the Defendant's name; or (2) held by any person or entity for the benefit of the
22 Defendant; or (3) under the direct or indirect control, whether jointly or singly, of the Defendant;
23 and

24 C. Defendant and its Representatives are preliminarily restrained and enjoined from
25 taking any action, directly or indirectly, which may result in the encumbrance or dissipation of
26 foreign assets, including but not limited to:

- 27 1. Sending any statement, letter, fax, e-mail or wire transmission, telephoning or
28 engaging in any other act, directly or indirectly, that results in a determination by a

1 foreign trustee or other entity that a "duress" event has occurred under the terms of a
2 foreign trust agreement; or

- 3 2. Notifying any trustee, protector or other agent of any foreign trust or other related
4 entities of the existence of this Order, or that an asset freeze is required pursuant to
5 a court Order, until such time that a full accounting has been provided pursuant to
6 this Paragraph.

7
8 **ACCESS TO BUSINESS RECORDS**

9 **VIII.**

10 **IT IS FURTHER ORDERED** that the Defendant, if it has not already done so in
11 compliance with the Temporary Restraining Order previously issued in this case, shall allow the
12 Commission's representatives, agents, and assistants access to the Defendant's business records to
13 inspect and copy documents. Accordingly, the Defendant shall, within forty-eight (48) hours of
14 receiving notice of this Order, produce to the Commission and the Commission's representatives,
15 agents, and assistants for inspection, inventory, and/or copying, at Federal Trade Commission, 600
16 Pennsylvania Avenue NW, Room H-286, Washington DC 20580, Attention: Ethan Arenson, the
17 following materials: (1) all client information, including, but not limited to, names, phone
18 numbers, addresses, email addresses, and payment information for all clients of Defendant's
19 services; (2) contracts; (3) correspondence, including, but not limited to, electronic correspondence
20 and Instant Messenger communications, that refer or relate to the Defendant's services; and (4)
21 accounting information, including, but not limited to, profit and loss statements, annual reports,
22 receipt books, ledgers, personal and business canceled checks and check registers, bank statements,
23 and appointment books.

24 *Provided, however,* this Paragraph excludes any record or other information pertaining to a
25 subscriber or customer of an electronic communications service or a remote computing service as
26 those terms are defined in the Electronic Communications Privacy Act, 18 U.S.C. § 2703(c)
27 (2006).

28

1 The Commission shall return produced materials pursuant to this Paragraph within five (5)
2 days of completing said inventory and copying.

3
4 **COMMENCEMENT OF DISCOVERY**

5 **IX.**

6 **IT IS FURTHER ORDERED** that pursuant to Federal Rules of Civil Procedure 30(a),
7 31(a), 34, and 45, and notwithstanding the provisions of Federal Rules of Civil Procedure 26(d)
8 and (f), 30(a)(2)(A)-(C), and 31(a)(2)(A)-(C), the Commission is granted leave, at any time after
9 entry of this Order, to commence discovery.

10
11 **PRESERVATION OF RECORDS**

12 **X.**

13 **IT IS FURTHER ORDERED** that the Defendant and its Representatives are hereby
14 preliminarily restrained and enjoined from destroying, erasing, mutilating, concealing, altering,
15 transferring, writing over, or otherwise disposing of, in any manner, directly or indirectly, any
16 documents or records of any kind that relate to the business practices or business finances of the
17 Defendant, including but not limited to, computerized files and storage media on which
18 information has been saved (including, but not limited to, hard drives, DVDs, CD-ROMS, zip
19 disks, floppy disks, punch cards, magnetic tape, backup tapes, and computer chips), and any and all
20 equipment needed to read any such documents or records, FTP logs, Service Access Logs,
21 USENET Newsgroup postings, World Wide Web pages, books, written or printed records,
22 handwritten notes, telephone logs, telephone scripts, receipt books, ledgers, personal and business
23 canceled checks and check registers, bank statements, appointment books, and other documents or
24 records of any kind that relate to the business practices or finances of the Defendant or its officers,
25 agents, servants, or employees.

1 **RECORD KEEPING/BUSINESS OPERATIONS**

2 **XI.**

3 **IT IS FURTHER ORDERED** that the Defendant is hereby preliminarily restrained and
4 enjoined from:

5 A. Failing to maintain documents that, in reasonable detail, accurately, fairly, and
6 completely reflect its income, disbursements, transactions, and use of money; and

7 B. Creating, operating, or exercising any control over any business entity, including
8 any partnership, limited partnership, joint venture, sole proprietorship, or corporation, without first
9 providing the Commission with a written statement disclosing: (1) the name of the business entity;
10 (2) the address and telephone number of the business entity; (3) the names of the business entity's
11 officers, directors, principals, managers and employees; and (4) a detailed description of the
12 business entity's intended activities.

13 **DISTRIBUTION OF ORDER BY DEFENDANT**

14 **XII.**

15 **IT IS FURTHER ORDERED** that the Defendant shall immediately provide a copy of this
16 Order to each of its subsidiaries, Upstream Service Providers, Data Centers, divisions, sales
17 entities, successors, assigns, officers, directors, employees, independent contractors, client
18 companies, agents, and attorneys, and shall, within ten (10) calendar days from the date of entry of
19 this Order, provide the Commission with a sworn statement that it has complied with this provision
20 of the Order, which statement shall include the names, physical addresses, and e-mail addresses of
21 each such person or entity who received a copy of the Order.
22

23 **SERVICE OF ORDER**

24 **XIII.**

25 **IT IS FURTHER ORDERED** that copies of this Order may be served by any means
26 authorized by law, including facsimile transmission, upon any financial institution or other entity
27 or person that may have possession, custody, or control of any documents of the Defendant, or that
28

1 may otherwise be subject to any provision of this Order.

2
3 **SERVICE UPON THE COMMISSION**

4 **XIV.**

5 **IT IS FURTHER ORDERED** that, with regard to any correspondence or pleadings related
6 to this Order, service on the Commission shall be performed by overnight mail delivery to the
7 attention of Ethan Arenson at the Federal Trade Commission, 600 Pennsylvania Avenue, NW,
8 Room H-286, Washington, DC 20580.

9
10 **MODIFICATION OF ORDER**

11 **XV.**

12 The court has concerns about the potential hardship this Order may impose on the
13 defendant and others, arising from information provided by the defendant and a few third-parties
14 who have communicated with the court. By Order made contemporaneously with this Order, the
15 court has appointed a receiver to expeditiously deal with any claim by a third party that it has
16 suffered harm as a result of the restraining order or will suffer harm as a result of this Preliminary
17 Injunction. The court has also noted in the submission by Max Christopher, defendant's purported
18 representative, that defendant "is not going to hide or not appear in court," that "defendant always
19 has been willing to cooperate with authorities and is ready to assist the investigation" and is "ready
20 to cooperate and provide any information [it has] on its servers." Further, the submission by Mr.
21 Christopher notes that the asset freeze has limited defendant's opportunities to obtain legal
22 representation and defend and respond. Therefore, **IT IS FURTHER ORDERED** that defendant
23 may, on 48 hours' notice to parties who have appeared, seek modification of this Order including
24 immediate release of funds necessary to pay for legal representation on behalf of defendant.

25
26 **RETENTION OF JURISDICTION**

27 **XIV.**

28 **IT IS FURTHER ORDERED** that this court shall retain jurisdiction of this matter for all

1 purposes. No security is required of any agency of the United States for the issuance of a
2 preliminary injunction. Fed. R. Civ. P. 65(c).

3 **SO ORDERED**, this 15th day of June, 2009.

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RONALD M. WHYTE
7 United States District Judge
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1 **Notice of this document has been electronically sent to:**

2 **Counsel for Plaintiff:**

3 Ethan Arenson earenson@ftc.gov
4 Carl Settlemyer csettlemyer@ftc.gov
Philip Tumminio ptumminio@ftc.gov

5

6 **Counsel for Defendants:**

7 (no appearance)

8

Counsel for Proposed Intervenors:

9 Karl Stephen Kronenberger karl@KBInternetlaw.com
10 Jeffrey Michael Rosenfeld Jeff@KBInternetlaw.com

11

12 Counsel are responsible for distributing copies of this document to co-counsel that have not
13 registered for e-filing under the court's CM/ECF program.

14

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16

17 **Dated:** 6/15/09

TER
Chambers of Judge Whyte

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ATTACHMENT A

FEDERAL TRADE COMMISSION
FINANCIAL STATEMENT OF CORPORATE DEFENDANT

Instructions:

1. Complete all items. Enter "None" or "N/A" ("Not Applicable") where appropriate. If you cannot fully answer a question, explain why.
2. In completing this financial statement, "the corporation" refers not only to this corporation but also to each of its predecessors that are not named defendants in this action.
3. When an Item asks for information about assets or liabilities "held by the corporation," include ALL such assets and liabilities, located within the United States or elsewhere, held by the corporation or held by others for the benefit of the corporation.
4. Attach continuation pages as needed. On the financial statement, state next to the Item number that the Item is being continued. On the continuation page(s), identify the Item number being continued.
5. Type or print legibly.
6. An officer of the corporation must sign and date the completed financial statement on the last page and initial each page in the space provided in the lower right corner.

Penalty for False Information:

Federal law provides that any person may be imprisoned for not more than five years, fined, or both, if such person:

- (1) "in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry" (18 U.S.C. § 1001);
- (2) "in any . . . statement under penalty of perjury as permitted under section 1746 of title 28, United States Code, willfully subscribes as true any material matter which he does not believe to be true" (18 U.S.C. § 1621); or
- (3) "in any (. . . statement under penalty of perjury as permitted under section 1746 of title 28, United States Code) in any proceeding before or ancillary to any court or grand jury of the United States knowingly makes any false material declaration or makes or uses any other information . . . knowing the same to contain any false material declaration." (18 U.S.C. § 1623).

For a felony conviction under the provisions cited above, federal law provides that the fine may be not more than the greater of (i) \$250,000 for an individual or \$500,000 for a corporation, or (ii) if the felony results in pecuniary gain to any person or pecuniary loss to any person other than the defendant, the greater of twice the gross gain or twice the gross loss. 18 U.S.C. § 3571.

BACKGROUND INFORMATION

Item 1. General Information

Corporation's Full Name _____

Primary Business Address _____ From (Date) _____

Telephone No. _____ Fax No. _____

E-Mail Address _____ Internet Home Page _____

All other current addresses & previous addresses for past five years, including post office boxes and mail drops:

Address _____ From/Until _____

Address _____ From/Until _____

Address _____ From/Until _____

All predecessor companies for past five years:

Name & Address _____ From/Until _____

Name & Address _____ From/Until _____

Name & Address _____ From/Until _____

Item 2. Legal Information

Federal Taxpayer ID No. _____ State & Date of Incorporation _____

State Tax ID No. _____ State _____ Profit or Not For Profit _____

Corporation's Present Status: Active _____ Inactive _____ Dissolved _____

If Dissolved: Date dissolved _____ By Whom _____

Reasons _____

Fiscal Year-End (Mo./Day) _____ Corporation's Business Activities _____

Item 3. Registered Agent

Name of Registered Agent _____

Address _____ Telephone No. _____

Item 4. Principal Stockholders

List all persons and entities that own at least 5% of the corporation's stock.

<u>Name & Address</u>	<u>% Owned</u>
_____	_____
_____	_____
_____	_____
_____	_____

Item 5. Board Members

List all members of the corporation's Board of Directors.

<u>Name & Address</u>	<u>% Owned</u>	<u>Term (From/Until)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Item 6. Officers

List all of the corporation's officers, including *de facto* officers (individuals with significant management responsibility whose titles do not reflect the nature of their positions).

<u>Name & Address</u>	<u>% Owned</u>
_____	_____
_____	_____
_____	_____
_____	_____

Item 7. Attorneys

List all attorneys retained by the corporation during the last three years.

<u>Name</u>	<u>Firm Name</u>	<u>Address</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

I am submitting this financial statement with the understanding that it may affect action by the Federal Trade Commission or a federal court. I have used my best efforts to obtain the information requested in this statement. The responses I have provided to the items above are true and contain all the requested facts and information of which I have notice or knowledge. I have provided all requested documents in my custody, possession, or control. I know of the penalties for false statements under 18 U.S.C. § 1001, 18 U.S.C. § 1621, and 18 U.S.C. § 1623 (five years imprisonment and/or fines). I certify under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on:

(Date)

Signature

Corporate Position