

JUL 08 2009

JAMES N. HATTEN, Clerk  
Deputy Clerk  
**ORIGINAL**

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

FEDERAL TRADE COMMISSION, and

COMMONWEALTH OF KENTUCKY  
*EX REL.* JACK CONWAY, ATTORNEY  
GENERAL OF KENTUCKY,  
Plaintiffs,

v.

DIRECT CONNECTION CONSULTING,  
INC., a corporation, also d/b/a SureTouch  
Long Distance;

DIGICOM, LLC, a limited liability  
company, also d/b/a DigiTouch Long  
Distance;

ELLIOTT BORENSTEIN, individually  
and as an owner, officer or manager of  
Direct Connection Consulting, Inc., and  
Digicom, LLC; and

JOANN R. (JODY)WINTER, individually  
and as an owner, officer or manager of  
Direct Connection Consulting, Inc., and  
Digicom, LLC,  
Defendants.

Case No. 1:08-cv-1739-TCB

**FINAL JUDGMENT AND  
ORDER OF PERMANENT  
INJUNCTION AGAINST  
JOANN R. (JODY) WINTER**

This matter comes before the Court on complaint of Plaintiffs, Federal Trade Commission and Commonwealth of Kentucky *ex rel.* Jack Conway, Attorney General of Kentucky (“Plaintiffs”), and Defendants, Direct Connection Consulting, Inc., also d/b/a SureTouch Long Distance, Digicom, LLC, also d/b/a DigiTouch Long Distance, Elliott Borenstein and JoAnn R. (“Jody”) Winter (“Defendants”).

Plaintiffs commenced this action by filing their complaint for permanent injunction and other equitable relief pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108, and the Kentucky Consumer Protection Act, KRS 367.010 *et seq.* The complaint alleged that Defendants engaged in unfair and deceptive acts and practices in connection with the telemarketing of goods and services.

Thereafter, Plaintiffs settled their claims against Defendants, Direct Connection Consulting, Inc., also d/b/a SureTouch Long Distance, Digicom, LLC, also d/b/a DigiTouch Long Distance and Elliott Borenstein and on March 23, 2009,

this Court entered a Final Judgment and Order of Permanent Injunction against those Defendants (Doc. 123).

The Commission and the remaining Defendant, JoAnn R. ("Jody") Winter, have now agreed to a settlement of this action without any adjudication of any issue of fact or law, and without Defendant Winter admitting liability for any of the violations alleged in the complaint.

THEREFORE, on the joint motion of the Commission and Defendant Winter, and after having considered the submissions of the parties and being otherwise fully advised of all matters in the case, it is hereby ORDERED, ADJUDGED AND DECREED as follows:

**FINDINGS**

1. This Court has jurisdiction over the subject matter of this case and personal jurisdiction over Defendant Winter.
2. Venue in this District is proper.
3. The activities of Defendant Winter are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

4. The Federal Trade Commission (“Plaintiff,” “FTC” or “Commission”) has authority to seek the relief it has requested and the complaint states a claim upon which relief may be granted against Defendant Winter.

5. Defendant Winter waives all right to seek judicial review or otherwise challenge or contest the validity of this Final Judgment and Order (“Final Order”).

6. Defendant Winter further waives and releases any claim Defendant Winter may have against the Commission, or any of the Commission’s employees, representatives or agents, including any claim she may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, amended by Pub. L. 104-121, 110 Stat. 847, 863-64 (1996).

7. Defendant Winter states that she has entered into this Final Order freely and without coercion. Defendant Winter further states that she has read or has otherwise been fully advised of the provisions of this Final Order and is fully prepared to abide by them.

8. This Final Order, and the relief awarded herein, is in addition to, and not in lieu of, any other remedies that may be provided by law, including both civil and criminal remedies.

9. The parties shall each bear their own costs and attorneys’ fees

incurred in this action.

10. Entry of this Final Order is in the public interest.

### **DEFINITIONS**

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

1. "Asset" or "Assets" means any legal or equitable interest in, right to, or claim to, any real or personal property, including, but not limited to, "goods," "instruments," "equipment," "fixtures," "general intangibles," "inventory," "checks," or "notes," (as these terms are defined in the Uniform Commercial Code), lines of credit, chattels, leaseholds, contracts, mail or other deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables, deposits, reserve accounts, funds, any monies held for or on behalf of Defendant Winter or for the benefit of Defendant Winter, and all cash, wherever located.
2. "Assisting others" includes, but is not limited to, providing any of the following services to any person or entity: (a) performing customer service functions, including, but not limited to, receiving or responding to consumer complaints; (b) formulating or providing, or arranging for the formulation or provision of, any sales script or any other marketing material; (c) performing marketing services of any kind; or (d) providing credit card merchant processing

accounts, or otherwise providing access to a billing and collection system (such as a credit card, checking, savings, share or similar account, utility bill, telephone bill, mortgage loan account or debit card), or causing any charges to be made to such an account or utilizing such a system.

3. "Billing information" means any data that enables any person to access a customer's or donor's account, such as a credit card, checking, savings, share or similar account, utility bill, mortgage loan account, or debit card.

4. "Corporate Defendants" means Direct Connection Consulting, Inc., also d/b/a SureTouch Long Distance, Digicom, LLC also d/b/a DigiTouch Long Distance, their successors and assigns, and by whatever other names each may be known.

5. "Customer" means any person who is or may be required to pay for goods or services offered through telemarketing.

6. "Defendant Winter" means JoAnn R. ("Jody") Winter and by whatever other name she may be known.

7. "Document" means writings, drawings, graphs, charts, photographs, sound recordings, images, and any other data or data compilations stored in any medium from which information can be obtained and translated, if necessary, into

reasonably usable form and is synonymous in meaning and equal in scope to the usage of the term in the Federal Rules of Civil Procedure 34(a). A draft or non-identical copy of a document is a separate document within the meaning of the term.

8. "Material" means likely to affect a person's choice of, or conduct regarding, goods or services or a charitable donation.

9. "Person" means a natural person, an organization or other legal entity, including a corporation, partnership, sole proprietorship, limited liability company, association, cooperative, or any other group or combination acting as an entity.

10. "Plaintiff" means the Federal Trade Commission ("Commission" or "FTC").

11. "Receiver" means Pat Huddleston, III, the receiver appointed over the corporate Defendants by the Court.

12. "Receivership Defendants" means the corporate Defendants.

13. "Telemarketer" means any person who, in connection with telemarketing, initiates or receives telephone calls to or from a customer or donor.

14. "Telemarketing" means a plan, program, or campaign which is

conducted to induce the purchase of goods or services or a charitable contribution, by use of one or more telephones and which involves more than one interstate telephone call, as that term is defined in the Telemarketing Sales Rule, 16 C.F.R. Part 310.

### **I. BAN ON TELEMARKETING**

IT IS THEREFORE ORDERED that Defendant Winter is permanently restrained and enjoined from engaging or participating in telemarketing of any kind, in any manner or capacity whatsoever, whether directly, indirectly through an intermediary or otherwise, individually, or through any business entity or other device.

### **II. PROHIBITED BUSINESS ACTIVITIES**

IT IS FURTHER ORDERED that, in connection with the advertising, marketing, promoting, offering for sale, or sale of any good or service, Defendant Winter and her officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, members, partners, corporations, subsidiaries, affiliates, successors and assigns, and all other persons or entities in active concert or participation with any of them who receive actual notice of this Final Order by personal service, facsimile, or otherwise, whether acting directly or through any



trust, corporation, subsidiary, division or other device, are hereby permanently restrained and enjoined from:

A. Misrepresenting, directly or indirectly, expressly or by implication, any material fact, including, but not limited to, misrepresenting that:

1. Defendant Winter is contacting consumers from, or on behalf of, or is otherwise affiliated with a major retailer or a consumer's credit card company;
2. Defendant Winter will provide consumers with free goods or services or assistance with unwanted credit card charges; or
3. Consumers' credit card accounts will not be charged or their bank accounts will not be debited;

B. Misrepresenting, directly or indirectly, expressly or by implication, the nature, characteristic or use of any offered good or service;

C. Charging consumers' credit cards or debiting consumers' bank accounts without obtaining from the consumer his or her express agreement to be charged for the goods or services;

D. Assisting others who violate any provisions of Paragraphs A, B or C of this Section.

### **III. PROHIBITION AGAINST DISTRIBUTION OF CUSTOMER INFORMATION**

IT IS FURTHER ORDERED that Defendant Winter and her officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, members, partners, corporations, subsidiaries, affiliates, successors and assigns, and all other persons or entities in active concert or participation with them who receive actual notice of this Final Order by personal service, facsimile, or otherwise, whether acting directly or through any trust, corporation, subsidiary, division or other device, are permanently restrained and enjoined from selling, renting, leasing, transferring or otherwise disclosing the individual name, address, telephone number, email address, social security number, billing information, or other identifying information of any person who provided any such information to any of the Defendants named in the complaint at any time in connection with the advertising, marketing, promoting, offering for sale, or sale of any goods or services; *provided, however*, that Defendant Winter may disclose such identifying information to any law enforcement or regulatory agency, or as required by any law, regulation or court order.

### **IV. MONETARY JUDGMENT AND CONSUMER REDRESS**

IT IS FURTHER ORDERED that:

A. Judgment is hereby entered in favor of the Commission and against Defendant Winter in the amount of fifteen million, seven hundred and seven thousand, nine hundred and seventeen dollars and eighty-six cents (\$15,707,917.86).

B. Except as provided in Section V of this Final Order, entitled "Right to Reopen as to Monetary Judgment," the judgment shall be suspended as to the Commission on satisfaction of the following conditions:

1. Defendant Winter shall immediately deliver to the Receiver all right, title and interest to, and possession of all motorized vehicles and water craft owned by her, including those she identified in her financial disclosure statements dated September 25, 2008:
  - a. Mercedes Benz E55, model year 2003;
  - b. Ford Expedition, model year 2006; and
  - c. Chaparral Boat, model year 1988.

Defendant Winter shall promptly transfer the titles of the motorized vehicles and water craft to the Receiver who shall liquidate them in accordance with Section VI of this Final Order. The proceeds from the sale shall be paid to the FTC;

2. Defendant Winter shall immediately surrender to the Receiver all right, title and interest to, and possession of her personal property items listed in Item 20 of her financial disclosure statements, dated September 25, 2008, and her financial disclosure deposition dated April 28, 2009, including:

- a. Patek Philippe Geneve watch with ten round cut diamond dial (vs 1 clarity, G color);
- b. Rolex two tone watch with champagne dial;
- c. Yellow gold diamond (1.35 carat round) pendant and diamond earrings;
- d. Mikimoto 7mm cultured pearl necklace with 7 piece ruby slide and pearl earrings;
- e. Kawai RX1 Baby Grand Piano, no. 2402573;
- f. her personal computer and her furniture.

The Receiver shall liquidate said property in accordance with Section VI of this Final Order. The proceeds from the sale shall be paid to the FTC;

3. Defendant Winter shall immediately surrender to the Receiver

all right, title and interest to, and possession of all her savings bonds, including those identified in Item 13 of her financial disclosure statement dated September 25, 2008. The Receiver shall liquidate said property in accordance with Section VI of this Final Order. The proceeds from the sale shall be paid to the FTC;

4. Defendant Winter shall immediately surrender to the Receiver all her right, title and interest to, and possession of all her real property, including those parcels identified in Item 22 of her financial disclosure statement dated September 25, 2008:
  - a. 450 Ridgewood Way, Alpharetta, Georgia 30005;
  - b. 44 Summer Haven Trail, Miramar Beach, Florida 32550;
  - c. Parcel no. 17-1S-28-0000-0099-30-000 transferred by warranty deed from Beverly J. Elliott to Jody R. Winter and recorded on June 21, 1999 at plat book 1764, pages 641-642, Santa Rosa County, Florida.

The Receiver shall liquidate Defendant Winter's interest in said property in accordance with Section VI of this Final Order. The proceeds from the sale shall be paid to the FTC;

5. Bank of America shall, within five (5) business days of the date of entry of this Final Order, transfer to the Receiver for the benefit of the FTC all assets held on account for Defendant Winter, including Winter's individual retirement accounts;
6. FBME Bank shall, within five (5) business days of the date of entry of this Final Order, transfer to the Receiver for the benefit of the FTC all assets held on account for Defendant Winter; and
7. Equitable Insurance shall, within five (5) business days of the date of the entry of this Final Order, liquidate and transfer to the Receiver for the benefit of the FTC all assets held on account for Defendant Winter, including the cash surrender value of Defendant Winter's life insurance policy, number xxxx6270.

C. Funds paid over to the Commission or its agents pursuant to this

Final Order, shall be deposited into a fund administered by the Commission or its designated representative to be used for equitable relief, including but not limited to consumer redress and any attendant expenses for the administration of any redress fund. Defendant Winter shall cooperate fully to assist the Commission in identifying consumers who may be entitled to redress pursuant to this Final Order. In the event that direct redress to consumers is wholly or partially impracticable, or funds remain after redress is completed, the Commission may apply funds for any other equitable relief (including consumer information remedies) that it determines to be reasonably related to the practices alleged in the complaint. Any funds not used for such equitable relief shall be deposited into the U.S. Treasury as disgorgement. Defendant Winter shall have no right to challenge the Commission's choice of remedies under this Section;

D. Defendant Winter surrenders all claims to dominion, control of, and title to all funds paid over to the Commission to the fullest extent permitted by law. Defendant Winter shall make no claim to or demand return of the funds, directly or indirectly, through counsel or otherwise.

E. Defendant Winter agrees that the facts as alleged in the complaint

filed in this action shall be taken as true without further proof in any bankruptcy case or subsequent civil litigation pursued by the Commission to enforce its rights to any payment or money judgment pursuant to this Final Order, including but not limited to a nondischargeability complaint in any bankruptcy case. Defendant Winter further stipulates and agrees that the facts alleged in the complaint establish all elements necessary to sustain an action pursuant to, and that this Final Order shall have collateral estoppel effect for purposes of, Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S. C. § 523(a)(2)(A).

F. Defendant Winter acknowledges and agrees that the judgment entered pursuant to this Section is equitable monetary relief, solely remedial in nature, and is not a fine, penalty, punitive assessment, or forfeiture.

G. Defendant Winter is hereby required, in accordance with 31 U.S.C. § 7701, to furnish to the Commission her taxpayer identifying numbers (social security number or employer identification number), which shall be used for purposes of collecting and reporting any delinquent amount arising out of this Final Order.

H. Defendant Winter shall cooperate fully with the Commission and its



agents in all attempts to collect the amount due pursuant to this Section if Defendant Winter fails to pay fully the amount due at the time specified herein. In such event, Defendant Winter shall provide the Commission with her federal and state tax returns for the preceding two years, and shall complete new standard-form financial disclosure forms fully and accurately within ten (10) business days of receiving them and a request from the Commission to do so. The Commission is authorized to verify all information provided by Defendant Winter on her financial disclosure forms with all appropriate third parties, including but not limited to financial institutions;

I. Unless she has done so already, Defendant Winter shall provide the Commission with a clear, legible and full-size photocopy of all valid driver's licenses she possesses, which will be used for reporting and compliance purposes; and

J. Any proceedings to lift the suspension of judgment instituted under this Section is in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including any other proceedings the Commission may initiate to enforce this Final Order.

**V. RIGHT TO REOPEN AS TO MONETARY JUDGMENT**

IT IS FURTHER ORDERED that:

A. By agreeing to this Final Order, Defendant Winter reaffirms and attests to the truthfulness, accuracy and completeness of her sworn testimony given at her financial disclosure deposition on April 28, 2009, and the truthfulness, accuracy, and completeness of her sworn financial disclosures dated September 25, 2008 and May 7, 2009. This Court's Final Order, and the Commission's agreement to enter into this Final Order, are expressly premised upon the truthfulness, accuracy, and completeness of Defendant Winter's financial condition, as represented in her Financial Statements and sworn testimony referenced above, which contain material information upon which the Commission relied in negotiating and agreeing to the terms of this Final Order.

B. If, upon motion by the Commission, this Court should find that Defendant Winter failed to disclose any material asset, or materially misrepresented the value of any asset, or made any other material misrepresentation in or omission from her financial statements or sworn testimony, the Court shall reinstate the suspended judgment against Defendant Winter, in favor of the Commission, in the amount of \$15,707,917.86, which the Commission

and Defendant Winter stipulate is the amount of consumer injury jointly and severally caused by Defendants, less any payments made in partial satisfaction of judgment, plus interest from the entry date of this Final Order, pursuant to 28 U.S.C. § 1961. *Provided, however*, that in all other respects, this Final Order shall remain in full force and effect unless otherwise ordered by the Court.

## **VI. RECEIVERSHIP PROVISIONS**

IT IS FURTHER ORDERED that:

A. Except as modified by this Section of the Final Order, the receivership imposed by this Court shall continue in the manner set forth in the Order of Preliminary Injunction (Doc. 77) and the Final Judgment and Order of Permanent Injunction Against Defendants, Direct Connection Consulting, Inc., d/b/a SureTouch Long Distance, Digicom, LLC, d/b/a DigiTouch Long Distance and Elliott Borenstein (Doc. 123).

B. The Receiver shall take all steps necessary to liquidate the assets of Defendant Winter that are surrendered to the Receiver pursuant to Section IV of this Final Order.

C. The Receiver shall continue to be entitled to compensation for the performance of his duties pursuant to this Final Order, from the assets of the

receivership Defendants, at the billing rate previously agreed to by the Receiver. Within 30 days after entry of this Final Order, and every 30 days thereafter until completed, the Receiver shall file with the Court, and serve on the parties, an accounting and request for the payment of such reasonable compensation.

D. Upon the liquidation of any asset obtained by or surrendered to the Receiver, the Receiver shall, at the Commission's request, immediately transfer all proceeds to the Commission or its designated representative in partial satisfaction of the judgment pursuant to Sections IV and V of this Final Order.

E. Defendant Winter, her officers, employees, agents, servants, attorneys, representatives, predecessors, successors, assigns and affiliates, release and discharge the Receiver and those that he employed in this matter from any and all claims, demands, actions, causes of actions, or suits that now exist or may hereafter accrue, whether known or unknown that relate to this Final Order or to the lawsuit that is the subject of this Final Order.

## **VII. COMPLIANCE MONITORING**

IT IS FURTHER ORDERED that, for the purpose of (i) monitoring and investigating compliance with any provision of this Final Order and (ii)

investigating the accuracy of Defendant Winter's financial statements upon which the Commission's agreement to this Final Order is expressly premised:

A. Within ten (10) days of receipt of written notice from a representative of the Commission, Defendant Winter shall submit additional written reports, which are true and accurate and sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and provide entry during normal business hours to any business location in Defendant Winter's possession or direct or indirect control to inspect the business operation;

B. In addition, the Commission is authorized to use all other lawful means, including, but not limited to:

1. obtaining discovery from any person, without further leave of the Court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, 45 and 69;
2. posing as consumers and suppliers to Defendant Winter, her employees, or any other entity managed or controlled in whole or in part by Defendant Winter, without the necessity of identification or prior notice; and

C. Defendant Winter shall permit representatives of the Commission to

interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to any conduct subject to this Final Order. The person interviewed may have counsel present. *Provided however*, that nothing in this Final Order shall limit the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

#### **VIII. COMPLIANCE REPORTING**

IT IS FURTHER ORDERED that, in order that compliance with the provisions of this Final Order may be monitored:

- A. For a period of five (5) years from the date of entry of this Final Order,
  1. Defendant Winter shall notify the Commission of the following:
    - a. Any changes in Defendant Winter's residence, mailing addresses, and telephone numbers, within ten (10) days of the date of such change;

- b. Any changes in Defendant Winter's employment status (including self-employment), and any change in Defendant Winter's ownership in any business entity, within ten (10) days of the date of such change. Such notice shall include the name and address of each business that Defendant Winter is affiliated with, employed by, creates or forms, or performs services for; a detailed description of the nature of the business; and a detailed description of Defendant Winter's duties and responsibilities in connection with the business or employment; and
  - c. Any changes in Defendant Winter's name or use of any aliases or fictitious names;
2. Defendant Winter shall notify the Commission of any changes in structure of any corporate Defendant or any business entity that Defendant Winter directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under this Final Order, including but not limited to:

incorporation or other organization; a dissolution, assignment, sale, merger, or other action; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Final Order; or a change in the business name or address, at least thirty (30) days prior to such change, provided that, with respect to any proposed change in the business entity about which Defendant Winter learns less than thirty (30) days prior to the date such action is to take place, Defendant Winter shall notify the Commission as soon as is practicable after obtaining such knowledge.

B. One hundred eighty (180) days after the date of entry of this Final Order and annually thereafter for a period of five (5) years, Defendant Winter shall provide a written report to the FTC, which is true and accurate and sworn to under penalty of perjury, setting forth in detail the manner and form in which she has complied and is complying with this Final Order. This report shall include, but not be limited to:

1. Defendant Winter's then-current residence address, mailing addresses, and telephone numbers;



2. Defendant Winter's then-current employment status (including self-employment), including the names, addresses, and telephone numbers of each business that Defendant Winter is affiliated with, employed by, or performs services for; a detailed description of the nature of the business; and a detailed description of Defendant Winter's duties and responsibilities in connection with the business or employment;
3. Any other changes required to be reported under Subsection A of this Section; and
4. A copy of each acknowledgment of receipt of this Final Order, obtained pursuant to the Section of this Final Order titled "Distribution of Final Order;" and

C. Defendant Winter shall notify the Commission of the filing of a bankruptcy petition by Defendant Winter within fifteen (15) days of filing.

D. For the purposes of this Final Order, Defendant Winter shall, unless otherwise directed by the Commission's authorized representatives, send by overnight courier all reports and notifications required by this Final Order to the Commission, to the following address:

Associate Director for Enforcement  
Federal Trade Commission  
600 Pennsylvania Avenue, N.W., Room NJ-2122  
Washington, D.C. 20580  
RE: *FTC v. Direct Connection Consulting, Inc.*

*Provided that*, in lieu of overnight courier, Defendant Winter may send such reports or notifications by first-class mail, but only if Defendant Winter contemporaneously sends an electronic version of such report or notification to the Commission at: [DEBrief@ftc.gov](mailto:DEBrief@ftc.gov).

E. For purposes of the compliance reporting and monitoring required by this Final Order, the Commission is authorized to communicate directly with Defendant Winter.

#### **IX. RECORD KEEPING PROVISIONS**

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry of this Final Order, Defendant Winter and those businesses where Defendant Winter is the majority owner or otherwise controls the business and their agents, employees, officers, corporations, and those persons in active concert or participation with them who receive actual notice of this Final Order by personal service, facsimile, or otherwise, are hereby restrained and enjoined from failing to create and/or retain the following records:

A. Accounting records that reflect the cost of goods or services sold, revenues generated, and the disbursement of such revenues;

B. Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by such business, including as an independent contractor; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;

C. Customer files containing the names, addresses, phone numbers, dollar amounts paid, quantity of items or services purchased, and description of items or services purchased, to the extent such information is obtained in the ordinary course of business;

D. Complaints and refund requests (whether received directly, indirectly, or through any third party) and any responses to those complaints or requests;

E. Copies of all sales scripts, training materials, advertisements, or other marketing materials, including websites and weblogs; and

F. All records and documents necessary to demonstrate full compliance with each provision of this Final Order, including but not limited to, copies of acknowledgments of receipt of this Final Order required by Sections X and XII of

this Final Order and all reports submitted to the Commission pursuant to the Section VIII of this Final Order.

#### **X. DISTRIBUTION OF FINAL ORDER**

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Final Order, Defendant Winter shall deliver copies of the Final Order as directed below:

A. Defendant Winter as Control Person: For any business that Defendant Winter controls, directly or indirectly, or in which Defendant Winter has a majority ownership interest, Defendant Winter must deliver a copy of this Final Order to (1) all principals, officers, directors, and managers of that business; (2) all employees, agents, and representatives of that business; and (3) any business entity resulting from any change in structure set forth in Subsection A.2 of Section VIII of this Final Order. For current personnel, delivery shall be within five (5) days of service of this Final Order upon Defendant Winter. For new personnel, delivery shall occur prior to them assuming their responsibilities. For any business entity resulting from any change in structure set forth in Subsection A.2 of Section VIII of this Final Order, delivery shall be at least ten (10) days prior to the change in structure.

B. Defendant Winter as employee or non-control person: For any business where Defendant Winter is not a controlling person of a business but otherwise engages in conduct related to the subject matter of this Final Order, Defendant Winter must deliver a copy of this Final Order to all principals and managers of such business before engaging in such conduct.

C. Defendant Winter must secure a signed and dated statement acknowledging receipt of the Final Order, within thirty (30) days of delivery, from all persons receiving a copy of the Final Order pursuant to this Section.

#### **XI. COOPERATION WITH COMMISSION COUNSEL**

IT IS FURTHER ORDERED that Defendant Winter shall, in connection with this action or any subsequent investigations related to or associated with the transactions or the occurrences that are the subject of the complaint, cooperate in good faith with the Commission and appear, or cause her officers, employees, representatives, or agents to appear, at such places and times as the Commission shall reasonably request, after written notice, for interviews, conferences, pretrial discovery, review of documents, and for such other matters as may be reasonably requested by the Commission. If requested in writing by the Commission, Defendant Winter shall appear, or cause her officers, employees, representatives,

or agents to appear, and provide truthful testimony in any trial, deposition, or other proceeding related to or associated with the transactions or the occurrences that are the subject of the complaint, without the service of a subpoena.

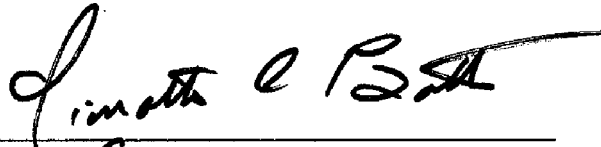
**XII. ACKNOWLEDGMENT OF RECEIPT OF FINAL ORDER**

IT IS FURTHER ORDERED that Defendant Winter, within five (5) business days of receipt of this Final Order as entered by the Court, must submit to the Commission a truthful sworn statement acknowledging receipt of this Final Order in the style of the form appended as Attachment A hereto.

**XIII. RETENTION OF JURISDICTION**

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Final Order.


SO ORDERED, this 8th day of July, 2009.



\_\_\_\_\_  
Timothy A. Batten  
United States District Judge

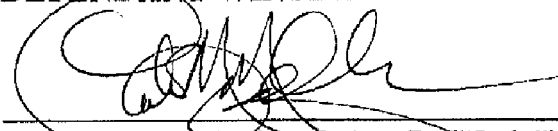
**CONSENTED TO BY THE PARTIES**

**PLAINTIFFS**

  
Federal Trade Commission  
Signed this 8<sup>th</sup> Day of July 2009.

/s/ Valerie M. Verduce  
Federal Trade Commission  
225 Peachtree Street, Suite 1500  
Atlanta, Georgia 30303  
Telephone: 404-656-1355  
Facsimile: 404-656-1379  
Email: vverduce@ftc.gov  
Georgia Bar No. 727066

**DEFENDANT WINTER**

  
Counsel for Defendant JoAnn R. ("Jody") Winter

/s/ Charles McCall Medlin  
Charles McCall Medlin, Esq.  
Attorney Bar Number: 500688

**BOVIS, KYLE & BURCH, LLC**  
200 Ashford Center North, Suite 500  
Atlanta, GA 30338-2668  
Phone: 770-391-9100  
Fax: 770-668-0878  
Email: cmm@boviskyle.com

Signed and Notarized this 7<sup>th</sup> day of MAY 2009

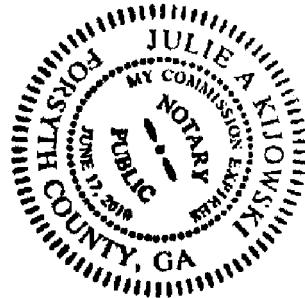
Julie A. Kijowski  
My Commission Expires: 6/17/2010



JoAnn R. Winter  
JoAnn R. ("Jody") Winter

Signed and Notarized this 7<sup>th</sup> day of MAY 2009

Julie A. Kijowski  
My Commission Expires: 6/17/2010





Attachment A

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

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FEDERAL TRADE COMMISSION, and

COMMONWEALTH OF KENTUCKY  
*EX REL.* JACK CONWAY, ATTORNEY  
GENERAL OF KENTUCKY,  
Plaintiffs,

Case No. 1:08-cv-01739-TCB

v.

DIRECT CONNECTION CONSULTING,  
INC., a corporation, also d/b/a SureTouch  
Long Distance;

**Affidavit Certifying Receipt of  
Final Judgment and Order of  
Permanent Injunction**

DIGICOM, LLC, a limited liability  
company, also d/b/a DigiTouch Long  
Distance;

ELLIOTT BORENSTEIN, individually  
and as an owner, officer or manager of  
Direct Connection Consulting, Inc., and  
Digicom, LLC; and

JOANN R. (JODY)WINTER, individually  
and as an owner, officer or manager of  
Direct Connection Consulting, Inc., and  
Digicom, LLC,  
Defendants.

I, JoAnn R. ("Jody") Winter, being duly sworn, hereby states and affirms as follows:

1. My name is JoAnn R. ("Jody") Winter, and I have personal knowledge of the facts set forth in this Affidavit.
2. I am a defendant in the above-styled civil action.
3. On \_\_\_\_\_, 2009, I received a copy of the Final Judgment and Order of Permanent Injunction ("Final Order"), which was signed by the Honorable Judge Batten and entered by him on \_\_\_\_\_. A true and correct copy of the Final Order that was received is appended to this Affidavit.

**I declare under penalty of perjury that the foregoing is true and correct.**

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2009 in \_\_\_\_\_  
County, State of \_\_\_\_\_.

By: \_\_\_\_\_  
JoAnn R. ("Jody") Winter

\_\_\_\_\_  
Notary Public  
My Commission expires: \_\_\_\_\_