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16 **UNITED STATES DISTRICT COURT**
17 **DISTRICT OF NEVADA**

18 FEDERAL TRADE COMMISSION,

19 Plaintiff,

20 v.

21 NETWORK SERVICES DEPOT, INC.;
22 NETWORK MARKETING, LLC, dba
23 Network Services Marketing;
24 NET DEPOT, INC.;
25 NETWORK SERVICES DISTRIBUTION,
26 INC.;
27 SUNBELT MARKETING, INC.;
28 CHARLES V. CASTRO;
ELIZABETH L. CASTRO; and
GREGORY HIGH;

Defendants; and

PHYLLIS WATSON,

Relief Defendant.

CV-S-05-0440-LDG-LRL

**FEDERAL TRADE
COMMISSION'S MOTION FOR
AN ORDER TO SHOW CAUSE
WHY JEFFREY S. BENICE AND
JEFFREY S. BENICE, A
PROFESSIONAL LAW
CORPORATION SHOULD NOT
BE HELD IN CIVIL CONTEMPT
AND MEMORANDUM IN
SUPPORT**

1 Plaintiff moves this Court for an Order to Show Cause why Jeffrey S. Benice (“Benice”)
2 and Jeffrey S. Benice, a Professional Law Corporation (“Benice PLC”) (collectively “Contempt
3 Defendants”) should not be held in contempt for violating this Court’s March 5, 2009 Final
4 Judgment and Order for Permanent Injunction and Other Equitable Relief (“Final Order”).
5 Contempt Defendants have violated and are continuing to violate the Final Order by failing to
6 turn over \$238,300 to the FTC.

7 This Court, having determined that certain retainer funds derived from the defendants’
8 proceeds from their unlawful conduct and that the funds were subject to consumer redress,
9 directed Benice PLC to: immediately segregate \$238,300; designate those funds as “Retainer
10 Funds Subject to Consumer Restitution in *FTC v. Network Services Depot*,” transfer the funds to
11 a trust account; and within 10 days transfer those funds to the FTC (Part V.E of the Final Order).
12 As described below, Contempt Defendants have failed to perform any of these requirements and
13 refuse to turn over any monies to the FTC.

14 This motion is supported by the accompanying memorandum of points and authorities,
15 the exhibits attached to it, exhibits previously filed in this matter in connection with various
16 pleadings filed by plaintiff and defendants, and orders entered by the Court. For the foregoing
17 reasons, and those set forth more fully in the accompanying Memorandum, the Federal Trade
18 Commission respectfully requests that the Court grant this Order to Show Cause why Jeffrey S.
19 Benice and Jeffrey S. Benice, a Professional Law Corporation should not be held in civil
20 contempt and enter civil contempt sanctions against them, including sanctions for each day of
21 noncompliance.

22
23 Respectfully Submitted,

24 WILLARD TOM
25 General Counsel

26 Dated: September 15, 2009

27 /s/ Laura Schneider
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1
2 **MEMORANDUM OF POINTS AND AUTHORITIES**¹

3 **I. Introduction**

4 Jeffrey S. Benice (“Benice”) and his law firm, Jeffrey S. Benice, a Professional Law
5 Corporation (“Benice PLC”) (collectively “Contempt Defendants”) have violated and continue
6 to violate this Court’s March 5, 2009 Final Judgment and Order for Permanent Injunction and
7 Other Equitable Relief (“Final Order”) by failing to turn over \$238,300 to the FTC. Benice
8 represented the defendants, including Charles Castro, in the initial FTC proceeding.² During
9 consent negotiations prior to the filing of the Commission action, Castro paid a \$375,000
10 retainer to Benice PLC. (Dkt. #51, Rosenthal I ¶¶ 2-4, 7, Ex. 8b). This Court, having
11 subsequently determined that this money derived from the defendants’ proceeds from their
12 unlawful conduct and was subject to consumer redress (Dkt. #175), ordered Benice PLC to:
13 immediately segregate \$238,300; designate those funds as “Retainer Funds Subject to Consumer
14 Restitution in *FTC v. Network Services Depot*,” transfer the funds to a trust account; and within
15 10 days transfer those funds to the FTC (Part V.E of the Order, hereinafter referred to as “the
16 turnover provision”). (Ex. 1 at 11-12). As described below, Contempt Defendants have failed to
17 perform any of these requirements and refuse to turn over any monies to the FTC. Accordingly,
18 the FTC seeks civil contempt sanctions against Contempt Defendants, including sanctions for
19 each day of noncompliance.
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21
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23
24 ¹ Exhibits cited in this memorandum that have been filed concurrently with this motion are
25 cited as “Ex. Number.” Exhibits cited in this memorandum that were filed previously in this
26 case are cited by the appropriate docket number. References to declarations that were previously
27 filed are cited by the docket number and the declarant’s last name followed by the appropriate
28 declaration paragraph number(s) or exhibit number(s), e.g., Dkt. #51, Rosenthal I ¶ 2. See this
memorandum’s Table of Exhibits for the full titles and locations of each exhibit cited.

² Benice continues to represent the defendants during the appeal process.

1 **II. Statement of Facts**

2 In November 2004, after conducting an investigation into the defendants' sale of Internet
3 kiosk business opportunities, FTC staff met with then-counsel for the defendants, Peter Spivack,
4 and expressed their belief that the defendants were liable for violations of the FTC Act and the
5 Franchise Rule. (Dkt. #18, Spivack ¶ 3; Dkt. #51, English III ¶ 3). On November 10, 2004, FTC
6 staff provided Spivack with a draft complaint. (Dkt. #153, Rosenthal II ¶ 2). Between
7 December 2004 and January 2005, Castro frenetically transferred funds that his companies
8 received from consumers in and out of numerous accounts held in the names of his companies,
9 himself, and his family members, including a trust account for the benefit of his children. (Dkt.
10 #51, Kelly I ¶¶ 4-6, 15). On January 14, 2005, while settlement negotiations with the FTC were
11 ongoing, Castro signed a retainer agreement with Jeffrey S. Benice of Benice PLC and paid
12 \$375,000 for future legal services. (Dkt. #51, Rosenthal I ¶¶ 2-4, 7, 9, Ex. 8b).

13 On April 5, 2005, the Commission filed a complaint and application for a Temporary
14 Restraining Order ("TRO") against the defendants. (Dkt. #1; Dkt. #2). On April 6, 2005, this
15 Court issued the TRO, which among other provisions, froze the assets of the defendants,
16 including assets that third parties held on behalf of, or for the benefit of, the defendants. (Dkt.
17 #13). This Court granted the Stipulated Preliminary Injunction on April 14, 2005, which
18 continued the freeze on those assets. (Dkt. #35). That day, when FTC staff asked Benice about
19 the whereabouts of the funds that had been in the Castro children's trust account, Benice
20 admitted that he believed that a substantial portion of those funds had been used to pay attorney
21 fees. (Dkt. #51, Rosenthal I ¶ 7). Thereafter, the FTC filed a motion for an order freezing the
22 \$375,000 transferred by the defendants to Benice PLC, arguing that those funds belong to
23 consumer victims under a constructive trust theory. (Dkt. #51).

24 In a March 24, 2006 order, this Court deferred ruling on Benice PLC's entitlement to the
25 transferred funds, but stated, "[i]f it is ultimately found the transfer of funds (or any portion
26 thereof) to defense counsel should be set aside, or made subject to consumer redress, the FTC
27 may move to that extent to have any depleted funds restored. Defense counsel, presumably, has
28 factored into its fee arrangements the risks of any such result." (Dkt. #142 at 3). On September

1 17, 2007, this Court granted the FTC's motion to set aside the transfer of retainer funds, finding
2 that the FTC established by clear and convincing evidence that the monies transferred to defense
3 counsel derive from the corporate defendants' proceeds, that the acquisition of the funds was
4 wrongful, and that the FTC is entitled to the proceeds for consumer redress. (Dkt. #175 at 2-3).
5 As an equitable matter, the Court stated that it would allow payment of certain of defense
6 counsel's reasonable and documented attorneys fees. (*Id.* at 3). Thereafter, on February 26,
7 2009, this Court entered a stipulation between the FTC and Benice PLC that Benice PLC was
8 entitled to \$136,700 in attorneys fees and costs. (Dkt. #235).

9 On March 5, 2009, this Court entered the Final Order providing specific steps Benice
10 PLC had to take to turnover the remaining \$238,300 to the FTC. (Ex. 1). Specifically, Part V.E
11 of the Final Order provides:

12 Jeffrey S. Benice, a Professional Law Corporation, its successors, and/or assigns shall:

- 13 1. Immediately upon receiving actual notice of this Order by personal service or
14 otherwise, (a) segregate two hundred thirty-eight thousand, three hundred dollars
15 (\$238,300) ("Benice Funds"), (b) designate the Benice Funds as: "Retainer Funds
16 Subject to Consumer Restitution in *FTC v. Network Services Depot*," and (c) transfer the
17 Benice Funds to a trust account maintained by the law firm of Jeffrey S. Benice; and
18 2. Within ten (10) business days of the date of receiving actual notice of this Order by
19 personal service or otherwise, transfer the Benice Funds to the Commission or its duly
20 authorized agent (as directed by Commission counsel) by electronic funds transfer,
21 designating the Benice Funds as "Retainer Funds Subject to Consumer Restitution in
22 *FTC v. Network Services Depot*."

19 (Ex. 1 at 11-12). Benice acknowledges receiving actual notice of the Final Order shortly after
20 March 5, 2009, through the Court's electronic delivery. (Ex. 2 at 9-10). Benice PLC also had
21 notice of the Final Order through its principal, Benice. (*Id.*).

22 On March 13, 2009, FTC staff sent a letter to Benice notifying him that pursuant to the
23 Order, he should transfer \$238,300 to the FTC no later than March 20, 2009. (Ex. 3 ¶2, Ex. 1).
24 The letter further gave specific instructions on how and where to transfer the monies. (*Id.*).
25 After March 20 passed without any transfer of funds, FTC staff spoke to Benice who stated that
26 he did not have the funds, that he spent them, and that he planned to appeal. (*Id.* ¶ 3). On April
27 3, 2009, Benice filed a notice of appeal, specifically including the turnover provision in the
28 notice; however, he did not apply for a stay of the turnover provision, nor did he post a bond.

1 (Dkt. #237). On June 23, 2009, FTC staff deposed Benice who stated that it was impossible for
2 him to comply with the turnover provision in the Final Order because those funds were depleted.
3 (Ex. 2 at 12-13, 45-46). On July 1, 2009, FTC staff sent a letter via email to Contempt
4 Defendants demanding compliance with the turnover provision. (Ex. 4 ¶ 2, Ex. 1). Contempt
5 Defendants admit that they did not take any steps to implement the segregation and transfer of
6 monies to the FTC (Ex. 2 at 11-12, 46), despite their assertion under oath that they are not
7 insolvent. (*Id.* at 45).

8 **III. Legal Argument**

9 This Court has inherent authority to enforce compliance with its orders through civil
10 contempt. *See, e.g., Stone v. City & County of San Francisco*, 968 F.2d 850, 856 n.9 (9th Cir.
11 1992) (*citing Spallone v. United States*, 493 U.S. 265, 276 (1990)). To establish liability for
12 civil contempt, the plaintiff must show by clear and convincing evidence that the party has
13 violated a specific and definite order of the court. *FTC v. Affordable Media, LLC*, 179 F.3d
14 1228, 1239 (9th Cir. 1999). Here, there is overwhelming evidence that Contempt Defendants are
15 bound by and violated the unambiguous turnover provision of the Final Order. “The burden then
16 shifts to the contemnors to demonstrate why they were unable to comply.” *Id.*; *Nat’l Labor*
17 *Relations Bd. v. Trans Ocean Export Packing, Inc.*, 473 F.2d 612, 616 (9th Cir. 1973). “A party
18 cannot disobey a court order and later argue that there were ‘exceptional circumstances’ for
19 doing so.” *In re Crystal Palace Gambling Hall, Inc.*, 817 F.2d 1361, 1365 (9th Cir. 1987).

20 **A. Both Benice And Benice PLC Are Bound by The Final Order**

21 Federal Rule of Civil Procedure 65(d)(2) explains that injunctions bind the parties to the
22 action, their officers, agents, servants, employees, and attorneys, as well as those persons in
23 active concert or participation with them who receive actual notice of the order by personal
24 service or otherwise. Fed. R. Civ. P. 65(d)(2). Here, although not a defendant in the underlying
25 action, Benice PLC represented the defendants, was a party litigating the issue of the retainer
26 funds, and had notice of the Final Order that specifically directs Benice PLC to turnover
27 \$238,300 to the FTC. *See United States Commodity Futures Trading Comm’n v. Forex Liquidity*
28 *LLC*, No. SACV 07-01437-CJC (Anx), 2009 WL 2231684 (C.D. Cal. July 23, 2009) (finding a

1 nonparty agent of the defendant in civil contempt for failing to turn over assets pursuant to court-
 2 ordered receivership). Benice, as the sole owner and officer of Benice PLC, was in active
 3 concert and participation with Benice PLC, serving as its agent, and had actual notice of the
 4 order. Therefore, both Benice and Benice PLC are bound by the Final Order pursuant to Fed. R.
 5 Civ. P. 65(d)(2).³

6 **B. Clear And Convincing Evidence Establishes That Contempt Defendants Are**
 7 **Violating A Specific And Definite Order Of The Court**

8 The Final Order specifically and definitely provides simple and clear steps that Benice
 9 PLC must take to transfer \$238,300 to the FTC. Part V.E of the Order directs Benice PLC
 10 immediately to “segregate” \$238,300; “designate” it as “Retainer Funds Subject to Consumer

11 ³ Moreover, the Ninth Circuit has held that an injunction is binding on a nonparty who has
 12 actual notice and either (1) is the alter ego of, or has an identity of interest with, a party, or (2)
 13 aids and abets a party’s violation of the order. *FTC v. Gill*, 183 F. Supp. 2d 1171, 1184 (C.D.
 14 Cal. 2001); see *Peterson v. Highland Music, Inc.*, 140 F.3d 1313, 1323-24 (9th Cir. 1998).
 15 2001). As the alter-ego of Benice PLC, Benice is personally liable for the \$238,300. In
 16 considering whether to hold a shareholder personally liable for corporate debts, the Ninth
 17 Circuit applies state law. Under California state law, equitable owners of a corporation are
 18 “personally liable when they treat the assets of the corporation as their own and add or withdraw
 19 capital from the corporation at will; when they hold themselves out as being personally liable for
 20 the debts of the corporation; or when they provide inadequate capitalization and actively
 21 participate in the conduct of corporate affairs.” *Minton v. Cavaney*, 56 Cal. 2d 576, 579 (Sup.
 22 Ct. Cal. 1961) (citations omitted).

19 Here, Benice is the sole stockholder, officer, and attorney of Benice PLC and has
 20 complete decision-making control over it, treating its assets as his own and holding himself
 21 liable for its debts. (Ex. 2 at 49-50; 57-64; 67-69; 72; 78; 80). For example, he admitted in his
 22 deposition that he pays himself out of Benice PLC’s business account when there is money
 23 available and uses a gas card in the firm’s name. (*Id.* at 60, 67-69, 72). Additionally, to pay
 24 Benice PLC’s operating expenses, Benice used money from a personal retirement account,
 25 liquidated a personal brokerage account, and took out personal loans. (*Id.* at 49-50, 65, 67-69).
 26 These personal loans include one for \$100,000 from a private lender, on which he is currently
 27 making payments and for which he gave the lender titles to two personal vehicles as security;
 28 and two previous loans from two other individuals, which he has since repaid. (*Id.* at 67-69, 78).
 Accordingly, there is no individuality or separateness between Benice and Benice PLC. See
Firstmark Capital Corp. v. Hempel Financial Corp., 859 F.2d 92, 94 (9th Cir. 1988). Thus, he is
 individually accountable for the directives in the Final Order. See also *FTC v. Kuykendall*, 371
 F.3d 745, 759 (10th Cir. 2004) (individual liable for contempt where he controlled the
 corporation and was thus, obligated to take appropriate action for the performance of the
 corporate duty) citing *Wilson v. United States*, 221 U.S. 361, 376 (1911).

1 Restitution in *FTC v. Network Services Depot*,” “transfer” it to a trust account maintained by
2 Benice PLC; and within ten business days, “transfer” it to the Commission or its duly authorized
3 agent (as directed by Commission counsel). (Ex. 1 at 11-12). Moreover, the proof of
4 noncompliance of the turnover provision of the Final Order is clear and convincing because
5 Contempt Defendants admit that they did not take any steps to implement the segregation and
6 transfer of monies to the FTC. (Ex. 2 at 11-12, 46). Although Benice has filed an appeal of the
7 Order, he has not applied for a stay (nor has he posted a bond pursuant to Fed. R. Civ. P. 62(d))
8 (Dkt. #237), and thus, Contempt Defendants are required to comply with the Final Order
9 promptly. *Donovan v. Mazzola*, 716 F.2d 1226, 1240 (9th Cir. 1983) quoting *Maness v. Meyers*,
10 419 U.S. 449, 458 (1975) (absent a stay, all court orders and judgments must be complied with
11 promptly). *See also GTE Sylvania, Inc. v. Consumers Union*, 445 U.S. 375, 386 (1980) (as a
12 matter of respect for the judicial process, persons subject to an injunctive order issued by a court
13 with jurisdiction are expected to obey that decree until it is modified or reversed, even if they
14 have proper grounds to object to the order).

15 **C. Contempt Defendants Cannot Support An Inability To Comply Defense**

16 In this case, Contempt Defendants are likely to assert an inability to comply defense.
17 They claim that compliance with the Final Order is a factual impossibility because they do not
18 have the particular funds given to them by the defendants. Benice claims that he spent the
19 \$375,000 retainer over the course of the representation prior to the entry of the Final Order. This
20 impossibility defense cannot prevail because the Final Order does not specify that the \$238,300
21 payment come from the “particular” monies given to Benice PLC by the defendants. The Court
22 recognized the possibility of dissipation and thus used the term “restore” in its March 24, 2006
23 order when it warned counsel that if it ultimately finds that the funds should be made subject to
24 consumer redress, “the FTC may move to have any depleted funds restored.” (Dkt. #142 at 3, fn.
25 1). Indeed, that is exactly what happened. Therefore, the fact that counsel may have already
26 spent that particular money is of no consequence because Contempt Defendants are liable to
27 replenish the amount of money to which they were never entitled.

28 Additionally, Contempt Defendants cannot sustain a claim that they are unable to pay due

1 to poverty or insolvency. In such a case, they must show that it is impossible for them to pay
2 any portion of the Order; otherwise, they must pay what they can. *SEC v. Zubkis*, No. 97 Civ.
3 8086 (JGK), 2003 U.S. Dist. LEXIS 16152 at *10 (S.D.N.Y. Sept. 11, 2003), citing *SEC v.*
4 *Musella*, 818 F. Supp. 600, 602 (S.D.N.Y. 1993); see *Affordable Media*, 179 F.3d at 1239-1244.
5 Benice testified at his deposition that he makes an average of \$400,000 per year from his
6 practice and specifically asserted that he is not insolvent. (Ex. 2 at 45). According to his
7 testimony, he appears to have very few assets but is living in extravagant style, paying over
8 \$6,000 per month in rent and over \$3,100 per month in car payments on a BMW, a Porsche
9 Turbo, a Jeep Wrangler, and a motorcycle. (*Id.* at 31-32, 40-44, Ex. JB 5). Thus, even if he
10 cannot afford to pay the entire amount in one lump sum, he can at least pay portions of it over
11 time. See *Musella*, 818 F. Supp. at 609-612 (the defendant was not entitled to continue living in
12 the lifestyle to which he had been accustomed; thus, the court ordered a payment plan in which
13 he could pay a lump sum up front and monthly payments, and enjoined him from disposing of or
14 encumbering in any way his interest in his real estate assets).

15 **D. The Court Should Enter The Proposed Contempt Order Containing Civil**
16 **Contempt Sanctions**

17 Once a party is found in contempt, the Court has wide discretion in determining the
18 appropriate sanctions. *United States v. United Mine Workers of Am.*, 330 U.S. 258, 303-04
19 (1947). Sanctions in civil contempt serve two purposes: (1) to coerce a defendant into
20 compliance with the court's order; and (2) to compensate the complainant for losses sustained as
21 a result of the contumacious behavior. *Id.* at 303-04 (citation omitted). To the extent that a
22 contempt sanction is coercive, the court has broad discretion to design a remedy that will bring
23 about compliance. *Falstaff Brewing Corp v. Miller Brewing Co.*, 702 F.2d 770, 779-80 (9th Cir.
24 1983). A close analogy to coercive imprisonment is a per diem fine imposed for each day a
25 contemnor fails to comply with an affirmative court order. *United Mine Workers of Am. v.*
26 *Bagwell*, 512 U.S. 821, 829 (1994). Per diem fines exert a constant coercive pressure, and once
27 the commands of the injunction are obeyed, daily fines may be purged. See also *FTC v.*
28 *Productive Mktg. Inc.*, 136 F. Supp. 2d 1096, 1112-13 (C.D. Cal. 2001) (finding nonparty in civil
contempt for failing to turn over assets to a court-ordered receivership and issuing a per diem

1 fine that doubled each day the nonparty failed to comply).

2 In light of their utter disregard of the Order, it is appropriate to impose a daily coercive
3 sanction – a per diem fine of \$50 for the first day of noncompliance, with the amount doubling
4 for every additional day of noncompliance until Contempt Defendants turn over the full sum of
5 \$238,300.⁴ Such a sanction takes into account Benice’s financial position (*see Richmark Corp.*
6 *v. Timber Falling Consultants*, 959 F.2d 1468, 1481 (9th Cir. 1992)) and the fact that the
7 \$238,300 is to be used for consumer redress in the underlying case and consumers will continue
8 to suffer injury until their money is returned.⁵

9 **E. The Court Should Award the FTC Interest Accrued Since March 5, 2009**

10 Pursuant to 28 U.S.C. § 1961, the Commission is entitled to interest on the \$238,300 that
11 the Court ordered Contempt Defendants to turnover in the Final Order. 28 U.S.C. § 1961
12 provides for mandatory interest on any money judgment in a federal court civil case to be
13 calculated from the date of the entry of the judgment. *See Tinsley v. Sea-Land Corp.*, 979 F.2d
14 1382, 1384 (9th Cir. 1992) (once final judgment has been entered in a civil suit in a federal
15 court, the prevailing party becomes a judgment creditor and is entitled to post-judgment interest
16 under the mandatory terms of 28 U.S.C. § 1961); *Waggoner v. R. McGray, Inc.*, 743 F.2d 643,
17 644 (9th Cir. 1984) (interest accrues from the date of judgment). Here, pursuant to 28 U.S.C. §
18 1961, the Commission is entitled to interest accrued from March 5, 2009, the date of the Final
19 Order, until the date Contempt Defendants turn over the full \$238,300 to the Commission. *See*
20 *Dishman v. UNUM Life Ins. Co. Of Am.*, 269 F.3d 974, 991 (9th Cir. 2001) (judgment within the
21 meaning of 28 U.S.C. § 1961 means a final appealable order).

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26 ⁴ In the event that Contempt Defendants can demonstrate that they have insufficient funds to
27 turn over the full amount immediately, the Court may order a payment plan. *See Musella*, 818 F.
28 Supp. at 609-612.

⁵ FTC staff already have begun the redress process from the underlying case.

1 **IV. Conclusion**

2 For the foregoing reasons, the Commission seeks an order to show cause why Contempt
3 Defendants should not be held in civil contempt.

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Respectfully Submitted,

WILLARD TOM
General Counsel

Dated: September 15, 2009

/s/ Laura Schneider
LAURA SCHNEIDER
Federal Trade Commission
601 New Jersey Avenue
Washington, DC 20580
Phone (202) 326-2604/Fax (202) 236-2558
Email: lschneider@ftc.gov

BLAINE T. WELSH
Assistant United States Attorney
333 Las Vegas Blvd, South, Suite 5000
Las Vegas, NV 89101
Phone (702) 388-6336/Fax (702) 388-6787

Attorneys for Plaintiff
Federal Trade Commission

1 **CERTIFICATE OF SERVICE**

2 This is to certify that on September 15, 2009, I served a true and correct copy (ies) of
3 the attached:

4 **FEDERAL TRADE COMMISSION'S MOTION FOR AN ORDER TO SHOW**
5 **CAUSE WHY JEFFREY S. BENICE AND JEFFREY S. BENICE, A**
6 **PROFESSIONAL LAW CORPORATION SHOULD NOT BE HELD IN CIVIL**
7 **CONTEMPT AND MEMORANDUM IN SUPPORT**

8 by placing said copy (ies) in a postage paid envelope addressed to the person (s) listed below; by
9 depositing said envelope in the U.S. Mail, by sending the package via an overnight delivery
10 service (such as Federal Express); or by facsimile, to:

11 Jeffrey S. Benice, Esq.
12 Center Tower
13 650 Town Center Dr.
14 Thirteenth Floor, Ste. 1300
15 Costa Mesa, CA 92626

16 Attorney for Defendants Charles Castro; Elizabeth Castro; Gregory High; and Phyllis
17 Watson; Network Services Depot, Inc.; Net Depot, Inc.; Network Marketing, LLC;
18 Network Services Distribution, Inc.; and Sunbelt Marketing, Inc.

19 I swear under penalty of perjury that the foregoing is true and correct. Executed this
20 September 15, 2009, at Washington, DC.

21
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23
24
25
26
27
28
/s/ Laura Schneider
Laura Schneider

1 WILLARD TOM
General Counsel

2 LAURA SCHNEIDER
3 Federal Trade Commission
4 601 New Jersey Avenue
5 Washington, DC 20580
6 Phone (202) 326-2604/ Fax (202) 326-2558
7 Email: lschneider@ftc.gov

8 BLAINE T. WELSH
9 Assistant United States Attorney
10 Bar No. 4790
11 333 Las Vegas Blvd, South, Suite 5000
12 Las Vegas, NV 89101
13 Phone (702) 388-6336/ Fax (702) 388-6787

14 Attorneys for Plaintiff
15 Federal Trade Commission

16 **UNITED STATES DISTRICT COURT**
17 **DISTRICT OF NEVADA**

18 FEDERAL TRADE COMMISSION,

19 Plaintiff,

20 v.

21 NETWORK SERVICES DEPOT, INC.;
22 NETWORK MARKETING, LLC, dba
23 Network Services Marketing;
24 NET DEPOT, INC.;
25 NETWORK SERVICES DISTRIBUTION,
26 INC.;
27 SUNBELT MARKETING, INC.;
28 CHARLES V. CASTRO;
ELIZABETH L. CASTRO; and
GREGORY HIGH;

Defendants; and

PHYLLIS WATSON,

Relief Defendant.

CV-S-05-0440-LDG-LRL

(Proposed)

**ORDER FOR JEFFREY S.
BENICE AND JEFFREY S.
BENICE, A PROFESSIONAL
LAW CORPORATION TO SHOW
CAUSE WHY THEY SHOULD
NOT BE HELD IN CIVIL
CONTEMPT**

26 Upon consideration of Plaintiff Federal Trade Commission's Motion for an Order to
27 Show Cause Why Jeffrey S. Benice ("Benice") and Jeffrey S. Benice, a Professional Law
28

1 Corporation (“Benice PLC”) (collectively “Contempt Defendants”) should not be held in civil
2 contempt for violating this Court’s Final Judgment and Order for Permanent Injunction and
3 Other Equitable Relief (“Final Order”) entered on March 5, 2009, and the accompanying
4 memorandum of points and authorities and exhibits, and finding good cause for said application,

5 **IT IS HEREBY ORDERED** that:

- 6 (1) The Application is **GRANTED**.
- 7 (2) Contempt Defendants shall appear before this Court on _____, **2009**, at
8 _____ **.m.** at the Lloyd D. George United States Courthouse, 1st Floor, 333
9 Las Vegas Boulevard South, Las Vegas, NV 89101-7065, to show cause, if any
10 there be, why this Court should not find them in civil contempt for failing to
11 comply with the requirements of the Final Order and impose such relief as it
12 deems appropriate.
- 13 (3) Contempt Defendants shall serve Plaintiff Federal Trade Commission (“FTC” or
14 “Commission”) any documentary evidence on which they will rely at the show
15 cause hearing **no later than fourteen (14) days prior to the hearing**, by
16 electronic mail to lschneider@ftc.gov or by overnight delivery addressed to Laura
17 Schneider, Federal Trade Commission, 600 Pennsylvania Ave., N.W., Suite NJ-
18 2122, Washington, D.C. 20580. Service of all Court filings on the FTC shall also
19 be made electronically or by overnight mail.
- 20 (4) If Contempt Defendants intend to present the testimony of any witness at the
21 show cause hearing, they shall serve the Commission, by electronic mail to
22 lschneider@ftc.gov and by overnight delivery to the above address, **no later**
23 **than fourteen (14) days prior to the hearing**, a statement containing the name,
24 address, and telephone number of any such witness.

25 Dated this _____ day of _____, 2009.

26
27 _____
28 United States District Judge

1 WILLARD TOM
General Counsel

2 LAURA SCHNEIDER
3 Federal Trade Commission
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6 Phone (202) 326-2604/ Fax (202) 326-2558
7 Email: lschneider@ftc.gov

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9 Assistant United States Attorney
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13 Phone (702) 388-6336/ Fax (702) 388-6787

14 Attorneys for Plaintiff
15 Federal Trade Commission

16 **UNITED STATES DISTRICT COURT**
17 **DISTRICT OF NEVADA**

18 FEDERAL TRADE COMMISSION,

19 Plaintiff,

20 v.

21 NETWORK SERVICES DEPOT, INC.;
22 NETWORK MARKETING, LLC, dba
23 Network Services Marketing;
24 NET DEPOT, INC.;
25 NETWORK SERVICES DISTRIBUTION,
26 INC.;
27 SUNBELT MARKETING, INC.;
28 CHARLES V. CASTRO;
ELIZABETH L. CASTRO; and
GREGORY HIGH;

Defendants; and

PHYLLIS WATSON,

Relief Defendant.

CV-S-05-0440-LDG-LRL

(Proposed)

CONTEMPT ORDER

26 Upon consideration of Plaintiff Federal Trade Commission’s Motion for an Order to
27 Show Cause Why Jeffrey S. Benice (“Benice”) and Jeffrey S. Benice, a Professional Law
28

1 Corporation (“Benice PLC”) (collectively “Contempt Defendants”) should not be held in civil
2 contempt for violating this Court’s Final Judgment and Order for Permanent Injunction and
3 Other Equitable Relief (“Final Order”) entered on March 5, 2009, and the accompanying
4 memorandum of points and authorities and exhibits, and finding good cause for said motion, the
5 Court finds and orders:

6 **FINDINGS**

7 1. This Court entered the Final Judgment and Order for Permanent Injunction and
8 Other Equitable Relief (“Final Order”) on March 5, 2009.

9 2. Jeffrey S. Benice (“Benice”) and Jeffrey S. Benice, a Professional Law
10 Corporation (“Benice PLC”) (collectively “Contempt Defendants”) received actual notice of the
11 Final Order.

12 3. Part V.E of the Final Order provides specific steps Contempt Defendants had to
13 take to turn over \$238,300 to the FTC. Specifically, Part V.E.1 of the Final Order directs
14 Contempt Defendants to immediately: “(a) segregate two hundred thirty-eight thousand, three
15 hundred dollars (\$238,300) (‘Benice Funds’); (b) designate the Benice Funds as: ‘Retainer Funds
16 Subject to Consumer Restitution in *FTC v. Network Services Depot*,’ and (c) transfer the Benice
17 Funds to a trust account maintained by the law firm of Jeffrey S. Benice.” Part V.E.2 of the
18 Final Order directs Contempt Defendants to “within ten (10) business days of the date of
19 receiving actual notice of this Order by personal service or otherwise, transfer the Benice Funds
20 to the Commission or its duly authorized agent (as directed by Commission counsel) by
21 electronic funds transfer, designating the Benice Funds as ‘Retainer Funds Subject to Consumer
22 Restitution in *FTC v. Network Services Depot*.’”

23 4. On September 15, 2009, the Commission filed a contempt proceeding against
24 Contempt Defendants, alleging that Contempt Defendants violated the Final Order by failing to
25 perform any of Part V.E of the Final Order’s requirements and failing to turn over any monies to
26 the Commission.

27 5. The Court finds that Contempt Defendants violated:

28 a. Part V.E.1 of the Final Order by failing to: (1) immediately segregate
\$238,300 upon receipt of the Final Order; (2) designate the Benice funds as “Retainer Funds

1 Subject to Consumer Restitution in *FTC v. Network Services Depot;*” and (3) transfer the Benice
2 funds to a trust account.

3 b. Part V.E.2 of the Final Order by failing to transfer the Benice funds to the
4 FTC within 10 days of receipt of the Final Order.

5 **ORDER**

6 1. Contempt Defendants Jeffrey S. Benice and Jeffrey S. Benice, a Professional Law
7 Corporation are in contempt of the Final Order.

8 2. Contempt Defendants shall immediately pay \$238,300 plus interest accrued since
9 March 5, 2009, pursuant to 28 U.S.C. § 1961, amounting to a total of \$_____ to the
10 Commission or its duly authorized agent (as directed by Commission counsel) by electronic
11 funds transfer.

12 3. In the event Contempt Defendants fail to immediately turn over \$238,300 plus
13 interest to the Commission, Contempt Defendants shall pay a per diem fine of \$50 for the first
14 day of noncompliance, with the amount doubling for every additional day of noncompliance
15 until Contempt Defendants turn over the full sum of \$238,300.

16
17 Dated this ____ day of _____, 2009.

18
19
20 _____
United States District Judge

1 WILLARD TOM
General Counsel

2 LAURA SCHNEIDER
3 Federal Trade Commission
4 601 New Jersey Avenue
5 Washington, DC 20580
6 Phone (202) 326-2604/ Fax (202) 326-2558
7 Email: lschneider@ftc.gov

8 BLAINE T. WELSH
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13 Phone (702) 388-6336/ Fax (702) 388-6787

14 Attorneys for Plaintiff
15 Federal Trade Commission

16 **UNITED STATES DISTRICT COURT**
17 **DISTRICT OF NEVADA**

18 FEDERAL TRADE COMMISSION,

19 Plaintiff,

20 v.

21 NETWORK SERVICES DEPOT, INC.;
22 NETWORK MARKETING, LLC, dba
23 Network Services Marketing;
24 NET DEPOT, INC.;
25 NETWORK SERVICES DISTRIBUTION,
26 INC.;
27 SUNBELT MARKETING, INC.;
28 CHARLES V. CASTRO;
ELIZABETH L. CASTRO; and
GREGORY HIGH;

Defendants; and

PHYLLIS WATSON,

Relief Defendant.

CV-S-05-0440-LDG-LRL

**EXHIBITS IN SUPPORT OF
FEDERAL TRADE
COMMISSION'S MOTION FOR
AN ORDER TO SHOW CAUSE
WHY JEFFREY S. BENICE AND
JEFFREY S. BENICE, A
PROFESSIONAL LAW
CORPORATION SHOULD NOT
BE HELD IN CIVIL CONTEMPT**

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

CV-S-05-0440-LDG-LRL

NETWORK SERVICES DEPOT, INC.;
NETWORK MARKETING, LLC, dba
Network Services Marketing;
NETWORK SERVICES DISTRIBUTION,
INC.;
SUNBELT MARKETING, INC.;
CHARLES V. CASTRO;
ELIZABETH L. CASTRO; and
GREGORY HIGH;

Defendants; and

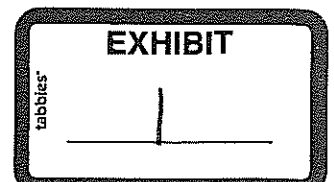
PHYLLIS WATSON,

Relief Defendant.

**FINAL JUDGMENT
AND ORDER FOR PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF**

WHEREAS, Plaintiff Federal Trade Commission ("FTC" or "Commission") commenced this action on April 5, 2005, by filing a complaint for a permanent injunction and other equitable relief in this case pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b (Dkt. #1).

WHEREAS, the Complaint alleges that Defendants, in connection with the marketing and sale of public access Internet terminals, have violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FTC's Trade Regulation Rule titled "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures," formerly codified as 16 C.F.R. Part 436 (2005) ("2005 Franchise Rule"), which rule has been replaced by two separate rules governing franchises and business opportunities as set forth in the Definitions section below.



1 WHEREAS, on April 6, 2005, the Court issued a Temporary Restraining Order in this
2 case (Dkt. #13), which, among other provisions, froze the assets of Defendants and Relief
3 Defendant. On April 14, 2005, the Court granted a Stipulated Preliminary Injunction in this case
4 (Dkt. #35), which, among other provisions, continued the freeze on those assets.

5 WHEREAS, the FTC filed a motion (Dkt. #51, Opposition - Dkt. #56, Reply -
6 Dkt. #62) for an order freezing certain funds transferred by Defendants to their attorneys,
7 arguing among other things, that those funds belong to consumer victims under a constructive
8 trust theory.

9 WHEREAS, on March 24, 2006, the Court entered an order (Dkt. #142), which stated,
10 among other things, that: “[i]f it is ultimately found the transfer of funds (or any portion thereof)
11 to defense counsel should be set aside, or made subject to consumer redress, the FTC may move
12 to that extent to have any depleted funds restored. Defense counsel, presumably, has factored
13 into its fee arrangements the risks of any such result.”

14 WHEREAS, the FTC moved for summary judgment against Defendants for violations of
15 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the 2005 Franchise Rule (Dkt. #78,
16 Response - Dkt. #79, Reply - Dkt. #127).

17 WHEREAS, the FTC’s motion for summary judgment requested that the Court, among
18 other things: (1) find that Defendants Network Services Depot, Inc.; Network Marketing, LLC;
19 Network Services Distribution, Inc.; Sunbelt Marketing, Inc.; Charles V. Castro; Elizabeth
20 Castro, and Gregory High had violated Section 5(a) of the FTC Act and the 2005 Franchise
21 Rule; (2) order injunctive relief and restitution for injured consumers pursuant to § 13(b) and
22 § 19 of the FTC Act, 15 U.S.C. § 53(b) and § 57b; (3) order Defendants Network Services
23 Depot, Inc.; Network Marketing, LLC; Network Services Distribution, Inc.; Sunbelt Marketing,
24 Inc.; Charles V. Castro; and Gregory High to pay restitution to injured consumers; (4) order that
25 the funds in the Castro Children’s Trust (controlled by Relief Defendant Phyllis Watson) be used
26 to pay consumer restitution; and (5) order that certain monies transferred to Defendants’
27 attorneys also be used for consumer restitution.

1 WHEREAS, in support of its motion for summary judgment, the FTC demonstrated that,
2 between mid 2001 and early 2004, consumers paid an aggregate of \$18,867,528 to Defendant
3 Network Services Depot.

4 WHEREAS, on September 29, 2006, the Court entered an order (Dkt. #143), which
5 granted the FTC's motion for summary judgment, with one exception – the Court sought
6 additional briefing on the issue of monies transferred to Defendants' attorneys.

7 WHEREAS, on September 17, 2007, the Court entered an order (Dkt. #175), which
8 found (1) that a portion of monies transferred to Defendants' attorneys are recoverable under the
9 theory of constructive trust; and (2) that the FTC established by clear and convincing evidence
10 (a) that the fee funds derive from corporate defendants' proceeds, (b) that the acquisition of the
11 funds was wrongful, and (c) that the FTC is entitled to the proceeds for consumer redress; but,
12 (3) that, as an equitable matter, the Court would permit payment of defense counsel's reasonable
13 and documented attorneys fees on matters directly related to this specific litigation up to March
14 24, 2006.

15 WHEREAS, on January 8, 2009, the Court entered an order (Dkt. #228), which: (1) states
16 that it would grant Defendants' attorney, the law firm of Jeffrey S. Benice, reasonable fees for
17 documented services directly related to this case between January 1, 2005, and April 1, 2006, at
18 the rate of \$300 for Mr. Benice and at the rate of one-third what Mr. Benice originally requested
19 for other professional services provided by his firm, as well as costs through the period as
20 requested; and (2) ordered Benice to submit to a revised motion for fees.

21 WHEREAS, on February 4, 2009, Mr. Benice filed a declaration (Dkt. #229) seeking
22 \$194,382 in fees and costs.

23 WHEREAS, the FTC and Mr. Benice entered a stipulation on February 25, 2009 (Dkt.
24 #233), stating the amount of fees and costs to which Mr. Benice is entitled pursuant to the
25 January 7, 2009, order is \$136,700.

26 WHEREAS, on February 13, 2009, the Court entered an order (Dkt. #232), which
27 modified the Stipulated Preliminary Injunction in this case so that Washington Mutual Bank may

1 enforce its remedies against real property owned by Defendant Gregory High, located at 90 Echo
2 Run, Irvine, CA. That order stated that, “if [surplus funds resulting from Washington Mutual’s
3 foreclosure proceedings] are realized after a final order has been entered in this matter, such
4 surplus funds be transferred to the FTC pursuant to the terms of the final order.”

5 WHEREAS, on February 27, 2009, the Federal Trade Commission filed a motion titled,
6 *Motion Pursuant to the Court’s January 7, 2009, Order for Entry of Final Judgment and Order.*

7 **THEREFORE, it is hereby ORDER, ADJUDGED, and DECREED as follows:**

8 **FINDINGS**

- 9 1. This Court has jurisdiction over the subject matter of this case and jurisdiction over all
10 parties.
- 11 2. Venue in this district is proper under 15 U.S.C. § 53(b) and 28 U.S.C. § 1391(b) and (c).
- 12 3. The activities of Defendants are in or affecting commerce, as defined in the FTC Act, 15
13 U.S.C. § 44.
- 14 4. The Complaint states a claim upon which relief can be granted against Defendants and
15 Relief Defendant under Sections 5(a), 13(b), and 19 of the Federal Trade Commission
16 Act (“FTC Act”), 15 U.S.C. §§ 45(a), 53(b), and 57b, and under the 2005 Franchise Rule,
17 16 C.F.R. Part 436 (2005).
- 18 5. This Order incorporates the findings and conclusions set forth in the September 29, 2006,
19 order (Dkt. #143) entered by this Court in this case.
- 20 6. Having reviewed the FTC’s Motion for Summary Judgment, the Court finds that between
21 mid 2001 and early 2004, consumers paid an aggregate of \$18,867,528 to Defendant
22 Network Services Depot.
- 23 7. This Order incorporates the findings and conclusions set forth in the March 24, 2006,
24 order (Dkt. #142), the September 17, 2007, order (Dkt. #175), the January 7, 2009, order
25 (Dkt. #228) (collectively, “Attorney Fees Orders”) entered by this Court in this case as to
26 Defendants and Jeffrey S. Benice.
- 27 8. Having reviewed the February 25, 2009, stipulation between the FTC and Mr. Benice,

1 the Court finds that the law firm of Jeffrey S. Benice is entitled to \$136,700 for
2 reasonable attorney fees and costs directly related to this case between January 1, 2005,
3 and April 1, 2006. Therefore, pursuant to the Attorney Fees Orders, the FTC is entitled,
4 for consumer restitution, to the retainer funds paid to the law firm of Jeffrey S. Benice in
5 excess of \$136,700, which amounts to \$238,300.

6 9. The paragraphs of this Order shall be read as the necessary requirements for compliance
7 and not as alternatives for compliance, and no paragraph serves to modify another
8 paragraph unless expressly so stated.

9 10. Each party shall bear its own costs and attorneys' fees.

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

11 **DEFINITIONS**

12 For purposes of this Order, the following definitions shall apply:

13 A. "Assets" means any legal or equitable interest in, right to, or claim to, any real
14 and personal property, including, but not limited to, chattel, goods, instruments, equipment,
15 fixtures, general intangibles, inventory, checks, notes, leaseholds, effects, contracts, mail or other
16 deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables,
17 funds, and cash, wherever located, whether in the United States or abroad.

18 B. "Business Opportunity Rule" means FTC Trade Regulation Rule titled
19 "Disclosure Requirements and Prohibitions Concerning Business Opportunities," codified at 16
20 C.F.R. Part 437, or as it may be amended.

21 C. "Business Venture" means any written or oral business arrangement, however
22 denominated, that is covered by the Franchise Rule or the Business Opportunity Rule, or that
23 consists of the payment of any consideration in exchange for:

24 a. the right or means to offer, sell, or distribute goods or services (regardless
25 of whether identified by a trademark, service mark, trade name,
26 advertising, or other commercial symbol); and

27 b. more than nominal assistance to any person or entity in connection with or

1 incident to the establishment, maintenance, or operation of a new business
2 or the entry by an existing business into a new line or type of business.

3 D. "Corporate Defendants" means Network Services Depot, Inc.; Network
4 Marketing, LLC; Network Services Distribution, Inc.; Sunbelt Marketing, Inc.; and their
5 successors and assigns.

6 E. "Defendants" means all of the Individual Defendants and the Corporate
7 Defendants, individually, collectively, or in any combination.

8 F. "Document" is synonymous in meaning and equal in scope to the usage of the
9 term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts,
10 photographs, audio and video recordings, computer records, and other data compilations from
11 which the information can be obtained and translated, if necessary, through detection devices
12 into reasonably usable form. A draft or non-identical copy is a separate document within the
13 meaning of the term.

14 G. "Franchise Rule" means the FTC Trade Regulation Rule titled "Disclosure
15 Requirements and Prohibitions Concerning Franchising," codified at 16 C.F.R. Part 436, or as it
16 may be amended.

17 H. "Individual Defendants" means Charles V. Castro, Elizabeth L. Castro, and
18 Gregory High.

19 I. "Person" means a natural person, organization or other legal entity, including a
20 corporation, partnership, proprietorship, association, or cooperative, or any other group, or
21 combination acting as an entity.

22 J. "Relief Defendant" means Phyllis Watson.

23 **ORDER**

24 **I.**

25 **BAN ON SALE OF FRANCHISES AND BUSINESS VENTURES**

26 **IT IS THEREFORE ORDERED** that the Corporate Defendants and Defendant Charles
27 V. Castro, directly or through any corporation, partnership, subsidiary, division, trade name,

1 device, or other entity, are hereby permanently restrained and enjoined from:

- 2 A. Advertising, marketing, promoting, offering for sale, selling, or assisting any
3 other person in the sale of any Business Venture; or
- 4 B. Receiving any remuneration or other consideration of any kind whatsoever from
5 any person engaged in or assisting in advertising, marketing, promoting, offering
6 for sale, or selling any Business Venture;
- 7 C. Holding any ownership interest, share, or stock in, any person engaged in
8 advertising, marketing, promoting, offering for sale, or selling any Business
9 Venture; or
- 10 D. Serving as an employee, officer, director, trustee, general manager of, or
11 consultant or advisor to, any person engaged in advertising, marketing,
12 promoting, offering for sale, or selling any Business Venture.

13 Nothing in this Order shall be read as an exception to this Section.

14 **II.**

15 **PROHIBITED REPRESENTATIONS**

16 **IT IS FURTHER ORDERED** that, in connection with the advertising, offering for sale,
17 licensing, contracting, sale or other promotion, in or affecting commerce, of any goods or
18 services, Defendants, directly or through any corporation, partnership, subsidiary, division, trade
19 name, device, or other entity, and their officers, agents, servants, employees, and attorneys, and
20 all persons and entities in active concert or participation with them who receive actual notice of
21 this Order, by personal service or otherwise, are hereby enjoined from misrepresenting,
22 expressly or by implication, any material fact, including, but not limited to:

- 23 A. The existence, performance, efficacy, nature, or central characteristic of such
24 good or service;
- 25 B. The income, profit, or sales volume that a purchaser of such good or service is
26 likely to achieve;
- 27 C. The source of any income or profit sent to a purchaser of such good or service; or

1 D. The availability or existence of locations or profitable locations for such good or
2 service.

3 **III.**

4 **MEANS AND INSTRUMENTALITIES**

5 **IT IS FURTHER ORDERED** that, in connection with the advertising, offering for sale,
6 licensing, contracting, sale or other promotion, in or affecting commerce, of any goods or
7 services, Defendants, directly or through any corporation, partnership, subsidiary, division, trade
8 name, device, or other entity, and their officers, agents, servants, employees, and attorneys, and
9 all persons and entities in active concert or participation with them who receive actual notice of
10 this Order, by personal service or otherwise, are hereby enjoined from providing to others the
11 means or instrumentalities with which to make misrepresentations, expressly or by implication,
12 of any material fact, including, but not limited to, providing others with materials that contain
13 false representations concerning:

- 14 A. The existence, performance, efficacy, nature, or central characteristic of such
15 good or service;
- 16 B. The income, profit, or sales volume that a purchaser of such good or service is
17 likely to achieve;
- 18 C. The source of any income or profit sent to a purchaser of such good or service; or
19 D. The availability or existence of locations or profitable locations for such good or
20 service.

21 **IV.**

22 **MONETARY RELIEF**

23 **IT IS FURTHER ORDERED** that:

- 24 A. Judgment is hereby entered jointly and severally against the Corporate
25 Defendants, Defendant Charles V. Castro, and Defendant Gregory High in the
26 amount of eighteen million, eight hundred twenty-seven thousand, five hundred
27 twenty-eight dollars (\$18,827,528), as equitable monetary relief to redress

1 consumer injury. This monetary judgment shall become immediately due and
2 payable by Defendants upon entry of this Order, and interest computed at the rate
3 prescribed under 28 U.S.C. § 1961 shall immediately begin to accrue on the
4 unpaid balance.

5 B. Within ten (10) business days of the date of service of this Order, by personal
6 service or otherwise, Relief Defendant shall pay to the FTC as equitable monetary
7 relief to redress consumer injury all funds contained in the account for which the
8 Relief Defendant is listed as the account holder, trustee, or custodian at Fullerton
9 Community Bank with account number ending in 0690, which was frozen
10 pursuant to the Stipulated Preliminary Injunction in this case, and funds that
11 Fullerton Community Bank removed from such frozen account and is holding
12 separately. That amount shall be at least two hundred seventy thousand, nine
13 hundred seventy-five dollars (\$270,975). In the event of default on the payment
14 required to be made by this Subsection, the entire unpaid judgment, together with
15 interest computed under 28 U.S.C. § 1961 -- accrued from the date of default until
16 the date of payment -- shall be immediately due and payable. *Provided, however,*
17 that this judgment shall be deemed fully satisfied upon completion of Section V.B
18 of this Order.

19 C. All payments required to be made to the Commission under this Order shall be
20 made by electronic funds transfer in accordance with directions provided by the
21 Commission.

22 D. All funds transferred pursuant to this Order shall be deposited into a fund
23 administered by the FTC, or its designated agent, to be used for equitable relief,
24 including, but not limited to, restitution and any attendant expenses for the
25 administration of any monetary fund. If the Commission determines, in its sole
26 discretion, that direct restitution for consumers is wholly or partially
27 impracticable or funds remain after restitution is completed, the Commission may

1 apply any remaining funds for any other equitable relief (including consumer
2 information remedies) that it determines to be reasonably related to Defendants'
3 practices alleged in the Complaint. Any funds not used for this equitable relief
4 shall be deposited into the U.S. Treasury as disgorgement. Defendants and Relief
5 Defendant shall have no right to challenge the FTC's choice of remedies under
6 this Section.

7 **V.**

8 **TURNOVER OF ASSETS HELD BY THIRD PARTIES**

9 **IT IS FURTHER ORDERED** that to partially satisfy the monetary judgment set forth
10 in the Section titled "Monetary Relief:"

11 A. Any law firm, financial or brokerage institution, escrow agent, title company,
12 commodity trading company, business entity, or person, that holds, controls, or
13 maintains custody of any asset or account of, on behalf of, or for the benefit of,
14 any Corporate Defendant, Defendant Charles V. Castro, or Defendant Gregory
15 High, or has held, controlled, or maintained custody of any account or asset of, on
16 behalf of, or for the benefit of, any such Defendant, shall turn over such asset or
17 all funds in such account to the Commission or its duly authorized agent (as
18 directed by Commission counsel), within ten (10) business days of receiving
19 actual notice of this Order by personal service or otherwise. Those assets or
20 accounts include, but not necessarily limited to:

- 21 1. All frozen funds held at Fullerton Community Bank, including, but not
22 limited to, funds in accounts in the name of, or controlled by, any
23 Defendant, including accounts with account numbers ending in 9150,
24 9169, 1018, 1827, 3179, 0058, 3518, 2905, 0266, and 9753;
- 25 2. All frozen funds held at Union Bank of California, including, but not
26 limited to, funds in the account in the name of, or controlled by, any
27 Defendant, with account number ending in 0230, 7484, and 7674; and

1 3. Three thousand dollars (\$3,000) currently held by in escrow by Goe &
2 Forsythe, LLP.

3 B. Within ten (10) business days of the date of service of this Order, by personal
4 service or otherwise, the Fullerton Community Bank shall transfer to the
5 Commission or its duly authorized agent (as directed by Commission counsel) all
6 funds contained in the account for which the Relief Defendant is listed as the
7 account holder, trustee, or custodian at Fullerton Community Bank with account
8 number ending in 0690, which was frozen pursuant to the Stipulated Preliminary
9 Injunction in this case, and funds that Fullerton Community Bank removed from
10 such frozen account and is holding separately. That amount shall be at least two
11 hundred seventy thousand, nine hundred seventy-five dollars (\$270,975).

12 C. Upon entry of this Order, Defendants and Relief Defendant relinquish all
13 dominion, control, and title to: (1) all funds contained in the accounts frozen
14 pursuant to the Stipulated Preliminary Injunction in this case and funds that a
15 financial institution removed from a frozen account and is holding separately; and
16 (2) all assets subject to claims made by the Commission in this case. Defendants
17 and Relief Defendant shall make no claim to or demand return of the funds,
18 directly or indirectly, through counsel or otherwise.

19 D. Defendants and Relief Defendant shall provide full cooperation to the
20 Commission to ensure that funds and assets held by third parties are turned over
21 to the Commission. Such full cooperation with the Commission shall include, but
22 not be limited to, promptly executing any documents necessary to effectuate any
23 transfer of funds to the Commission or its agents or representatives.

24 E. Jeffrey S. Benice, a Professional Law Corporation, its successors, and/or assigns
25 shall:

26 1. Immediately upon receiving actual notice of this Order by personal service
27 or otherwise, (a) segregate two hundred thirty-eight thousand, three

1 hundred dollars (\$238,300) (“Benice Funds”), (b) designate the Benice
2 Funds as: “Retainer Funds Subject to Consumer Restitution in *FTC v.*
3 *Network Services Depot;*” and (c) transfer the Benice Funds to a trust
4 account maintained by the law firm of Jeffrey S. Benice; and

5 2. Within ten (10) business days of the date of receiving actual notice of this
6 Order by personal service or otherwise, transfer the Benice Funds to the
7 Commission or its duly authorized agent (as directed by Commission
8 counsel) by electronic funds transfer, designating the Benice Funds as
9 “Retainer Funds Subject to Consumer Restitution in *FTC v. Network*
10 *Services Depot.*”

11 F. If, after entry of this Order, Washington Mutual Bank, its successors, and/or
12 assigns, realizes any excess proceeds (proceeds in excess of payment of all sums
13 that Washington Mutual Bank secured by a deed of trust) upon exercising any
14 rights it has to enforce remedies against real property owned by Defendant
15 Gregory High, located at 90 Echo Run, Irvine, CA, Washington Mutual Bank, its
16 successors, and/or assigns shall transfer such excess proceeds to the Commission
17 or its duly authorized agent (as directed by Commission counsel) within ten (10)
18 business days of realizing such proceeds.

19 G. All payments required to be made to the Commission or its agents or
20 representatives under this Section shall be used as equitable monetary relief to
21 redress consumer injury in accordance with the Section titled “Monetary Relief”
22 and shall be made by electronic funds transfer in accordance with directions
23 provided by the Commission.

24 VI.

25 LIFTING OF THE ASSET FREEZE

26 IT IS FURTHER ORDERED that the freeze of the assets pursuant to the Stipulated
27 Preliminary Injunction in this case shall be lifted to the extent necessary to transfer assets

1 pursuant to Section V.A-D. Once all such assets required to be transferred under such provisions
2 have been transferred, as evidenced by a letter confirming receipt of same from counsel for the
3 Commission, the freeze of the remaining assets shall be lifted permanently.

4 **VII.**

5 **FORFEITURE ACTION**

6 **IT IS FURTHER ORDERED** that, with respect to any assets seized from Bank of
7 America Accounts in the name of Bikini Vending Corporation by the Federal Bureau of
8 Investigation, including approximately one million, five hundred twenty-four thousand dollars
9 (\$1,524,000), which is or has been the subject of *U.S. v. \$1,524,438.90*, SACV 04-910-AHS-
10 MLG (C.D. Calif.):

- 11 A. Within five (5) business days of the date of entry of this Order, Defendants shall
12 release any and all claims they may have to such assets.
- 13 B. Upon entry of this Order, the Defendants shall relinquish all dominion, control,
14 and title to such assets. Defendants shall make no claim to or demand return of
15 such assets, directly or indirectly, through counsel or otherwise.
- 16 C. Such assets and their proceeds may be transferred by the Office of the United
17 States Marshal, or its designated agent, to the Federal Trade Commission, or its
18 designated agent.
- 19 D. Any such assets transferred to the Commission shall be used as equitable
20 monetary relief to redress consumer injury in accordance with the Section titled
21 "Monetary Relief" and shall partially satisfy the monetary judgment set forth in
22 that section.

23 **VIII.**

24 **CUSTOMER LISTS**

25 **IT IS FURTHER ORDERED** that Defendants, directly or through any corporation,
26 partnership, subsidiary, division, trade name, device, or other entity, and their officers, agents,
27 servants, employees, and attorneys, and all persons and entities in active concert or participation

1 with them who receive actual notice of this Order, by personal service or otherwise, are hereby
2 enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name, address,
3 telephone number, credit card number, bank account number, email address, or other identifying
4 information of any person who purchased a Business Venture from any Defendant; *provided* that
5 Defendants may disclose such identifying information to a law enforcement agency, including
6 the Federal Trade Commission, or as required by any law, regulation, or court order.

7 **IX.**

8 **COMPLIANCE MONITORING**

9 **IT IS FURTHER ORDERED** that, for the purpose of monitoring and investigating
10 compliance with any provision of this Order:

- 11 A. Within ten (10) days of receipt of written notice from a representative of the
12 Commission, Defendants and Relief Defendant each shall submit additional
13 written reports, which are true and accurate and sworn to under penalty of
14 perjury; produce documents for inspection and copying; appear for deposition;
15 and provide entry during normal business hours to any business location in such
16 Defendant's possession or direct or indirect control to inspect the business
17 operation;
- 18 B. In addition, the Commission is authorized to use all other lawful means, including
19 but not limited to:
- 20 1. obtaining discovery from any person, without further leave of court, using
21 the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, 45 and 69;
 - 22 2. posing as consumers and suppliers to Defendants, their employees, or any
23 other entity managed or controlled in whole or in part by any Defendant,
24 without the necessity of identification or prior notice; and
- 25 C. Defendants each shall permit representatives of the Commission to interview any
26 employer, consultant, independent contractor, representative, agent,
27 or employee who has agreed to such an interview, relating in any way to any

1 conduct subject to this Order. The person interviewed may have counsel present.

2 *Provided however*, that nothing in this Order shall limit the Commission's lawful use of
3 compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to
4 obtain any documentary material, tangible things, testimony, or information relevant to unfair or
5 deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. §
6 45(a)(1)).

7 **X.**

8 **COMPLIANCE REPORTING**

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

11 A. For a period of five (5) years from the date of entry of this Order,

12 1. Each Individual Defendant shall notify the Commission of the following:

- 13 a. Any changes in such Defendant's residence, mailing addresses,
14 and telephone numbers, within ten (10) days of the date of such
15 change;
- 16 b. Any changes in such Defendant's employment status (including
17 self-employment), and any change in such Defendant's ownership
18 in any business entity, within ten (10) days of the date of such
19 change. Such notice shall include the name and address of each
20 business that such Defendant is affiliated with, employed by,
21 creates or forms, or performs services for; a detailed description of
22 the nature of the business; and a detailed description of such
23 Defendant's duties and responsibilities in connection with the
24 business or employment; and
- 25 c. Any changes in such Defendant's name or use of any aliases or
26 fictitious names;

27 2. Defendants shall notify the Commission of any changes in structure of any

1 Corporate Defendant or any business entity that any Defendant directly or
2 indirectly controls, or has an ownership interest in, that may affect
3 compliance obligations arising under this Order, including but not limited
4 to: incorporation or other organization; a dissolution, assignment, sale,
5 merger, or other action; the creation or dissolution of a subsidiary, parent,
6 or affiliate that engages in any acts or practices subject to this Order; or a
7 change in the business name or address, at least thirty (30) days prior to
8 such change, *provided* that, with respect to any proposed change in the
9 business entity about which a Defendant learns less than thirty (30) days
10 prior to the date such action is to take place, such Defendant shall notify
11 the Commission as soon as is practicable after obtaining such knowledge.

12 B. One hundred eighty (180) days after the date of entry of this Order and annually
13 thereafter for a period of five (5) years, Defendants each shall provide a written
14 report to the FTC, which is true and accurate and sworn to under penalty of
15 perjury, setting forth in detail the manner and form in which they have complied
16 and are complying with this Order. This report shall include, but not be limited
17 to:

18 1. For each Individual Defendant:

- 19 a. such Defendant's then-current residence address, mailing
20 addresses, and telephone numbers;
- 21 b. such Defendant's then-current employment status (including self-
22 employment), including the name, addresses, and telephone
23 numbers of each business that such Defendant is affiliated with,
24 employed by, or performs services for; a detailed description of the
25 nature of the business; and a detailed description of such
26 Defendant's duties and responsibilities in connection with the
27 business or employment; and

1 c. Any other changes required to be reported under Subsection A of
2 this Section.

3 2. For all Defendants:

4 a. A copy of each acknowledgment of receipt of this Order, obtained
5 pursuant to the Section titled "Distribution of Order;" and

6 b. Any other changes required to be reported under Subsection A of
7 this Section.

8 C. Each Defendant shall notify the Commission of the filing of a bankruptcy petition
9 by such Defendant within fifteen (15) days of filing.

10 D. For the purposes of this Order, Defendants shall, unless otherwise directed by the
11 Commission's authorized representatives, send by overnight courier all reports
12 and notifications required by this Order to the Commission, to the following
13 address:

14 Associate Director for Enforcement
15 Federal Trade Commission
16 600 Pennsylvania Avenue, N.W., Room NJ-2122
17 Washington, D.C. 20580
18 RE: *FTC v. Network Services Depot, Inc., CV-S-05-0440-LDG-LRL.*

19 *Provided* that, in lieu of overnight courier, Defendants may send such reports or
20 notifications by first-class mail, but only if Defendants contemporaneously send
21 an electronic version of such report or notification to the Commission at:

22 DEBrief@ftc.gov.

23 E. For purposes of the compliance reporting and monitoring required by this Order,
24 the Commission is authorized to communicate directly with each Defendant and
25 Relief Defendant.

26 **XI.**

27 **RECORD KEEPING PROVISIONS**

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry
of this Order, Defendants, in connection with any business where any Defendant is the majority

1 owner of the business or directly or indirectly manages or controls the business, and their agents,
2 employees, officers, corporations, and those persons in active concert or participation with them
3 who receive actual notice of this Order by personal service or otherwise, are hereby restrained
4 and enjoined from failing to create and retain the following records:

- 5 A. Accounting records that reflect the cost of goods or services sold, revenues
6 generated, and the disbursement of such revenues;
- 7 B. Personnel records accurately reflecting: the name, address, and telephone number
8 of each person employed in any capacity by such business, including as an
9 independent contractor; that person's job title or position; the date upon which the
10 person commenced work; and the date and reason for the person's termination, if
11 applicable;
- 12 C. Customer files containing the names, addresses, phone numbers, dollar amounts
13 paid, quantity of items or services purchased, and description of items or services
14 purchased, to the extent such information is obtained in the ordinary course of
15 business;
- 16 D. Complaints and refund requests (whether received directly, indirectly, or through
17 any third party) and any responses to those complaints or requests;
- 18 E. Copies of all sales scripts, training materials, advertisements, or other marketing
19 materials; and
- 20 F. All records and documents necessary to demonstrate full compliance with each
21 provision of this Order, including but not limited to, copies of acknowledgments
22 of receipt of this Order required by the Sections titled "Distribution of Order" and
23 "Acknowledgment of Receipt of Order" and all reports submitted to the FTC
24 pursuant to the Section titled "Compliance Reporting."

25 **XII.**

26 **DISTRIBUTION OF ORDER**

27 **IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of entry

1 of this Order, Defendants shall deliver copies of the Order as directed below:

2 A. **Corporate Defendant:** Each Corporate Defendant must deliver a copy of this
3 Order to (1) all of its principals, officers, directors, and managers; (2) all of its
4 employees, agents, and representatives who engage in conduct related to the
5 subject matter of the Order; and (3) any business entity resulting from any change
6 in structure set forth in Subsection A.2 of the Section titled “Compliance
7 Reporting.” For current personnel, delivery shall be within five (5) days of
8 service of this Order upon such Defendant. For new personnel, delivery shall
9 occur prior to them assuming their responsibilities. For any business entity
10 resulting from any change in structure set forth in Subsection A.2 of the Section
11 titled “Compliance Reporting,” delivery shall be at least ten (10) days prior to the
12 change in structure.

13 B. **Individual Defendant as Control Person:** For any business that an Individual
14 Defendant controls, directly or indirectly, or in which such Defendant has a
15 majority ownership interest, such Defendant must deliver a copy of this Order to
16 (1) all principals, officers, directors, and managers of that business; (2) all
17 employees, agents, and representatives of that business who engage in conduct
18 related to the subject matter of the Order; and (3) any business entity resulting
19 from any change in structure set forth in Subsection A.2 of the Section titled
20 “Compliance Reporting.” For current personnel, delivery shall be within five (5)
21 days of service of this Order upon such Defendant. For new personnel, delivery
22 shall occur prior to them assuming their responsibilities. For any business entity
23 resulting from any change in structure set forth in Subsection A.2 of the Section
24 titled “Compliance Reporting,” delivery shall be at least ten (10) days prior to the
25 change in structure.

26 C. **Individual Defendant as employee or non-control person:** For any business
27 where an Individual Defendant is not a controlling person of a business but

1 otherwise engages in conduct related to the subject matter of this Order, such
2 Defendant must deliver a copy of this Order to all principals and managers of
3 such business before engaging in such conduct.

4 D. Defendants must secure a signed and dated statement acknowledging receipt of
5 the Order, within thirty (30) days of delivery, from all persons receiving a copy of
6 the Order pursuant to this Section.

7 **XIII.**

8 **ACKNOWLEDGMENT OF RECEIPT OF ORDER**

9 **IT IS FURTHER ORDERED** that each Defendant and Relief Defendant, within five (5)
10 business days of receipt of this Order as entered by the Court, must submit to the Commission a
11 truthful sworn statement acknowledging receipt of this Order.

12 **XIV.**

13 **SEVERABILITY**

14 **IT IS FURTHER ORDERED** that the provisions of this Order are separate and
15 severable from one another. If any provision is stayed or determined to be invalid, the remaining
16 provisions shall remain in full force and effect.

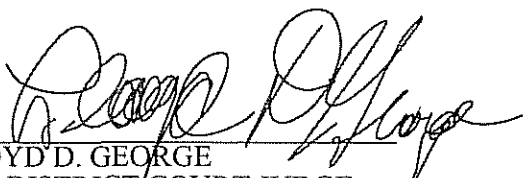
17 **XV.**

18 **RETENTION OF JURISDICTION**

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

21
22 **IT IS SO ORDERED**, this 5 day of MAR, 2009

23
24
25 Dated: 5 MAR 2009

26 
27 **LLOYD D. GEORGE**
U.S. DISTRICT COURT JUDGE

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Respectfully submitted,

/s/ Lisa D. Rosenthal

DATED: 2/27/09

LISA D. ROSENTHAL
KERRY O'BRIEN
Federal Trade Commission
901 Market Street, Suite 570
San Francisco, CA 94103
Phone (415) 848-5100/ Fax (415) 848-5184
Email: lrosenthal@ftc.gov

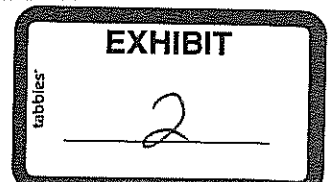
Jeffrey Benice

June 23, 2009

Los Angeles, CA

Page 1

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA
3
4 FEDERAL TRADE COMMISSION,)
5 Plaintiff,)
6 vs.) CV-S-05-0440-LDG-LRL
7 NETWORK SERVICES DEPOT, INC.;) Volume I
8 NETWORK MARKETING, LLC, dba)
9 Network Services Marketing;)
10 NETWORK SERVICES DISTRIBUTION)
11 INC.;)
12 SUNBELT MARKETING, INC.;)
13 CHARLES V. CASTRO;)
14 ELIZABETH L. CASTRO; and)
15 GREGORY HIGH;)
16 Defendants; and)
17 PHYLLIS WATSON,)
18 Relief Defendant.)
19 _____)
20
21 The deposition of JEFFREY BENICE,
22 taken at 10877 Wilshire Boulevard, Suite 700,
23 Los Angeles, California, commencing at 10:45 a.m.,
24 Tuesday, June 23rd, 2009, before Valerie L. Boyce,
25 CSR No. 11626.



Jeffrey Benice

June 23, 2009

Los Angeles, CA

Page 2	Page 4
<p>1 APPEARANCES OF COUNSEL:</p> <p>2</p> <p>3 FOR PLAINTIFF:</p> <p>4 FEDERAL TRADE COMMISSION</p> <p>5 BY: LAURA SCHNEIDER, ESQ.</p> <p>6 (telephonically)</p> <p>7 601 New Jersey Avenue, NW</p> <p>8 Room 2141</p> <p>9 Washington, D.C. 20001</p> <p>10 (202) 326-2503</p> <p>11 lschneider@ftc.gov</p> <p>12</p> <p>13 Also present:</p> <p>14 Charles Pidano (telephonically)</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p>1 EXHIBITS</p> <p>2 Plaintiff's Description Marked</p> <p>3 Exhibit JB5 Federal Trade Commission 13</p> <p>4 Financial Statement of</p> <p>5 Corporate Defendant</p> <p>6 Exhibit JB6 Schedule of Assets and Debts 13</p> <p>7 Exhibit JB7 U.S. Corporation Income Tax 13</p> <p>8 Return</p> <p>9</p> <p>10 INFORMATION REQUESTED:</p> <p>11 PAGE 55, LINE 3</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
Page 3	Page 5
<p>1 INDEX</p> <p>2 Witness</p> <p>3 Jeffrey Benice</p> <p>4 Examination by: Page</p> <p>5 Ms. Schneider ----- 5</p> <p>6</p> <p>7 EXHIBITS</p> <p>8 Plaintiff's Description Marked</p> <p>9 Exhibit JB1 Subpoena to Testify at a 7</p> <p>10 Deposition or to Produce</p> <p>11 Documents in a Civil Action</p> <p>12 Exhibit JB2 Final Judgment and Order for 8</p> <p>13 Permanent Injunction and</p> <p>14 Other Equitable Relief</p> <p>15 Exhibit JB3a Subpoena to Produce Documents, 13</p> <p>16 Information, or Objects or to</p> <p>17 Permit Inspection of Premises</p> <p>18 Exhibit JB3b Subpoena to Produce Documents, 13</p> <p>19 Information, or Objects or to</p> <p>20 Permit Inspection of Premises</p> <p>21 Exhibit JB4 Federal Trade Commission 13</p> <p>22 Financial Statement of</p> <p>23 Individual Defendant</p> <p>24</p> <p>25 ///</p>	<p>1 Tuesday, June 23, 2009, 10:45 a.m.</p> <p>2 Los Angeles, California</p> <p>3</p> <p>4 JEFFREY BENICE</p> <p>5 was called as a witness by and on behalf of the</p> <p>6 Plaintiff, and having been first duly sworn by the</p> <p>7 Certified Shorthand Reporter, was examined and</p> <p>8 testified as follows:</p> <p>9</p> <p>10 MS. SCHNEIDER: For the record, this is a</p> <p>11 telephonic deposition. My name is Laura Schneider. I'm</p> <p>12 an attorney with the Federal Trade Commission. I am on</p> <p>13 the phone in Washington, D.C., and present with me is</p> <p>14 Charles Pidano, a financial analyst with the Federal</p> <p>15 Trade Commission. That is it for the room here in D.C.</p> <p>16 Mr. Benice, can you state for the record who is</p> <p>17 present there.</p> <p>18 THE WITNESS: Just me and the court reporter.</p> <p>19</p> <p>20 EXAMINATION</p> <p>21</p> <p>22 BY MS. SCHNEIDER:</p> <p>23 Q. Okay. And can you state your full name for the</p> <p>24 record, please.</p> <p>25 A. Jeffrey Steven Benice.</p>

Jeffrey Benice

June 23, 2009

Los Angeles, CA

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<p>1 MS. SCHNEIDER: And for the record, this 2 deposition is being taken under the case FTC versus 3 Network Services Depot, et al., in the District of 4 Nevada; and it's pursuant to Section IX of the Permanent 5 Injunction and Final Judgment Order, and the FTC does 6 reserve the right to reopen the deposition at a later 7 date if necessary. 8 Q. Mr. Benice, I know you're a practicing attorney. 9 Have you taken depositions during your tenure as an 10 attorney? 11 A. Yes. You don't need to give me an admonition. 12 Q. Okay. How many years have you been an attorney? 13 A. I was admitted to the California Bar in November 14 of 1978. 15 Q. Okay. And have you been deposed in the past? 16 A. Yes. 17 Q. About how many times? 18 A. I don't recall. At least two. 19 Q. When was the last time? 20 A. I couldn't tell you. By that I mean more 21 than -- 22 Q. More than five years ago? 23 A. No, no. Several years ago. 24 Q. Oh. So, as you know, it's important to 25 verbalize all your answers, especially since we're on the</p>	<p>1 date; is that correct? 2 A. Correct. 3 Q. And you're here pursuant to this notice on the 4 reschedule request? 5 A. Correct. 6 Q. Great. Have you prepared for this deposition by 7 discussing it with anyone else? 8 A. No. 9 Q. Mr. Benice, do you have any other names that you 10 go under? 11 A. No. 12 (Deposition Exhibit JB2 was marked for 13 identification.) 14 BY MS. SCHNEIDER: 15 Q. I'd like for you to look at now JB2 which we've 16 marked, which is the Final Judgment and Order for 17 Permanent Injunction and Other Equitable Relief. 18 A. Yes. I have that. 19 Q. And that is in the case FTC versus Network 20 Services Depot. 21 Were you involved in the litigation in that 22 case? 23 A. Yes. 24 Q. In what capacity? 25 A. I represented several of the defendants in</p>
Page 7	Page 9
<p>1 telephone. If you want me to repeat something, let me 2 know. If you don't understand something, please let me 3 know. 4 A. Yes. 5 Q. Okay. How are you feeling today? 6 A. Fine. 7 Q. Okay. Are you taking any medication that might 8 interfere with your ability to recall or testify 9 truthfully today? 10 A. No. 11 Q. Are you experiencing any kind of condition that 12 would affect your ability to recall or testify truthfully 13 today? 14 A. No. 15 MS. SCHNEIDER: All right. Valerie, if you 16 could hand Mr. Benice JB1. 17 THE WITNESS: I've got that. 18 (Deposition Exhibit JB1 was marked for 19 identification.) 20 BY MS. SCHNEIDER: 21 Q. Great. This is the notice of deposition. Did 22 you receive this notice, Mr. Benice? 23 A. Yes. 24 Q. Okay. And this deposition notice was for 25 June 9, but you requested the rescheduling for today's</p>	<p>1 conjunction with the law firm of Goe & Forsythe. 2 Q. Okay. And Charles Castro was one of the 3 defendants in that case? 4 A. Yes. 5 Q. You represented him? 6 A. Yes. 7 Q. When were you first hired by Mr. Castro? 8 A. I don't recall specifically. '05 or '06. I 9 just don't recall. If you had something to refresh my 10 memory. What was the year that this action was filed? 11 Q. If you have the order, the temporary restraining 12 order was issued on April 6, 2005. 13 A. Right. Yes. I was retained in early '05. 14 Q. Okay. And you represented him through Final 15 Judgment and Order? 16 A. Correct. I still represent him. 17 Q. And you still represent him. 18 A. Correct. 19 Q. This final order was entered on March 5th, 2009, 20 by the court; is that right? 21 A. That's what it says, yes. 22 Q. Okay. When did you receive a copy of this final 23 order? 24 A. I don't recall. It was sometime after. I think 25 this was sent by e-mail. When you ask if I received it,</p>

Page 10

1 when I actually saw it was not on March 5th.
 2 Q. Okay. But you did receive it shortly
 3 thereafter?
 4 A. Correct.
 5 Q. And you said by e-mail?
 6 A. I think this was served by e-mail, yes.
 7 Q. That was served through the court system, the
 8 ECF system?
 9 A. Correct.
 10 Q. Did you provide copies of this to your client?
 11 A. Yes.
 12 Q. Do you know approximately when?
 13 A. No.
 14 Q. Turning over in the order to Section V,
 15 Section V(E).
 16 A. My client at the time was incarcerated, and he
 17 is incarcerated. I believe this was sent by my office to
 18 his wife, Beth Castro, who in turn then forwards all
 19 materials to him. He's in the Chino State Prison.
 20 Q. Okay.
 21 A. You asked me to turn to what page?
 22 Q. Page 10, Section V, Turnover of Assets Held by
 23 Third Parties.
 24 A. Correct.
 25 Q. Actually, if you turn to page 11,

Page 11

1 Section V(E) --
 2 A. Correct.
 3 Q. -- that section orders you to segregate, under
 4 section (a), \$238,300.
 5 A. Correct.
 6 Q. And then it designates those funds as retainer
 7 funds subject to consumer restitution in FTC versus
 8 Network Services Depot.
 9 A. Yes.
 10 Q. Then, under Letter C, transfer the Benice funds
 11 to a trust account maintained by the law firm of
 12 Jeffrey S. Benice.
 13 A. Correct.
 14 Q. Just for the record, that is your law firm, the
 15 Law Firm of Jeffrey S. Benice?
 16 A. Correct.
 17 Q. Okay. Can you tell me what, if any, actions you
 18 took to comply with Section 1(a), segregating the funds?
 19 A. None. It's a theoretical and factual
 20 impossibility. I don't have \$238,300 in funds.
 21 Q. Okay. Did you take any action to designate any
 22 funds under section (b)?
 23 A. No. I don't have any such funds, as had been
 24 reported to the court many, many years ago.
 25 Q. Did you take any action to comply with

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1 Section 1(c), the transfer of any funds?
 2 A. I do not have the retainer funds.
 3 Q. So that was a no?
 4 A. Correct.
 5 Q. The order states then in Part 2 there --
 6 Part V(2) states that within ten business days of the
 7 date of receiving actual notice of this order, that you
 8 transfer the Benice funds to the Commission or its duly
 9 authorized agent.
 10 A. Correct.
 11 Q. Did you take any action to comply with that
 12 section?
 13 A. Yes, I did. So we're real clear, I took action
 14 to comply with Paragraph E; and as I said, it's a factual
 15 impossibility. I do not have --
 16 Q. You didn't transfer any funds to the FTC?
 17 A. No, I did not. I do not have the retainer
 18 funds.
 19 Q. Can you explain what happened to those funds?
 20 A. Well, yeah. I billed Mr. Castro about \$700,000
 21 in legal fees over the past four and a half years, both
 22 in this action and his criminal proceedings. He paid me,
 23 if I recall, a \$350,000 retainer that was spent in legal
 24 fees over the course of that representation, actually,
 25 several years ago.

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1 Q. Are you saying prior to when the court
 2 ordered -- prior to the March 5th order?
 3 A. Absolutely. Like about probably three years
 4 ago. Again, I'm certain, two to three years ago, I
 5 believe those fees were dissipated.
 6 Q. Okay. Let me come back to that in a little
 7 while. Let's look at the next exhibit, JB3a and JB3b.
 8 (Deposition Exhibits JB3a and JB3b were marked
 9 for identification.)
 10 BY MS. SCHNEIDER:
 11 Q. Are these the subpoenas that you received for
 12 documents from the Federal Trade Commission addressed to
 13 both you and to Jeffrey S. Benice, Professional Law
 14 Corporation?
 15 A. Look to be, yes.
 16 Q. Did you fill out both individual and corporate
 17 financial statements pursuant to these notices?
 18 A. I believe I did. I think I provide backup
 19 information.
 20 Q. And backup information. Okay. All right.
 21 MS. SCHNEIDER: The next four exhibits are JB4,
 22 JB5, JB6, and JB7.
 23 (Deposition Exhibits JB4, JB5, JB6, and JB7 were
 24 marked for identification.)
 25 THE WITNESS: Just a second.

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<p>1 BY MS. SCHNEIDER:</p> <p>2 Q. I've marked the individual financials as JB4,</p> <p>3 being from Jeffrey S. Benice --</p> <p>4 A. Correct.</p> <p>5 Q. -- and the corporate financials as JB5 from the</p> <p>6 Jeffrey S. Benice Professional Law Corporation.</p> <p>7 A. Correct.</p> <p>8 Q. JB6 is the Schedule of Assets and Debts that</p> <p>9 look like from the divorce proceeding.</p> <p>10 A. Correct.</p> <p>11 Q. And JB7 is a tax return from 2007.</p> <p>12 A. Draft. Not filed.</p> <p>13 Q. Draft, yes. And those are all documents you</p> <p>14 provided to the FTC in response to those subpoenas, the</p> <p>15 JB3a and -3b?</p> <p>16 A. Right. And I think I also provided you with a</p> <p>17 lawsuit I'm involved in concerning a dispute with the</p> <p>18 IRS.</p> <p>19 Q. Right. And was there anything else?</p> <p>20 A. I'd have to go back and look. I can't answer</p> <p>21 that. There were several sets of documents I sent off.</p> <p>22 Q. Okay. Looking at the financials JB4 and JB5,</p> <p>23 did you prepare those documents?</p> <p>24 A. That's my handwriting, yes.</p> <p>25 Q. What type of documents did you rely on to</p>	<p>1 some information -- some further information concerning</p> <p>2 the '07 tax return. For example, there's that "sample</p> <p>3 checks written" on the last page. That's from an audit.</p> <p>4 Not an audit. It's from a cash-flow analysis of my tax</p> <p>5 returns that was actually generated in my divorce.</p> <p>6 Again, all I'm saying is it's a variable</p> <p>7 situation and that's why, over a two- or three-year</p> <p>8 period of time in my divorce, there was a forensic</p> <p>9 accounting done. What the forensic accounting concluded</p> <p>10 was that my average annual income -- it made conclusions</p> <p>11 about my average annual income and average gross revenues</p> <p>12 based on the former three years.</p> <p>13 Q. Let me just go back one second. The sample</p> <p>14 deposits and the sample checks -- I'm looking at the last</p> <p>15 two pages of JB7 -- you didn't provide the full cash flow</p> <p>16 analysis, though, did you?</p> <p>17 A. I just don't remember. I'd have to look.</p> <p>18 Q. Okay. If you do have that, I would ask that you</p> <p>19 provide it. I have not received that.</p> <p>20 A. Okay.</p> <p>21 Q. With respect to the documents JB4 and JB5,</p> <p>22 those, you said, were accurate as to the date you signed</p> <p>23 them. That was May 24th of 2009; is that correct?</p> <p>24 A. Correct.</p> <p>25 Q. You mentioned the divorce proceedings. Is that</p>
Page 15	Page 17
<p>1 prepare those?</p> <p>2 A. None. My memory. And that's why, in addition,</p> <p>3 I submitted the income -- that Schedule of Assets and</p> <p>4 Debts in my divorce.</p> <p>5 Q. And to the best of your knowledge, are these JB4</p> <p>6 and JB5 -- let's do JB4. Is that an accurate reflection</p> <p>7 of your individual financial condition at this time?</p> <p>8 A. As of the date I signed it, yes.</p> <p>9 Q. For JB5, is that an accurate reflection of the</p> <p>10 financial condition of the Jeffrey S. Benice Professional</p> <p>11 Law Corporation?</p> <p>12 A. As of the date that it was signed, yes. I mean,</p> <p>13 I have a law firm that some days I'm bouncing checks,</p> <p>14 some days there's money. That's why I provided you with</p> <p>15 a copy of the tax returns and, I think, the draft tax</p> <p>16 returns and the "sample check written." I guess it's the</p> <p>17 audit that I was involved in in my divorce that kind of</p> <p>18 did a two- to three-year analysis of cash flow, what my</p> <p>19 average annual cash flow is and my average annual</p> <p>20 income --</p> <p>21 Q. For JB6, the Schedule of Assets and Debts, all I</p> <p>22 received was this four-page document.</p> <p>23 A. Correct.</p> <p>24 Q. More to it?</p> <p>25 A. No. What I was saying is I thought there was</p>	<p>1 still pending?</p> <p>2 A. Correct.</p> <p>3 Q. So you are still currently married at this time?</p> <p>4 A. There's not a final judgment.</p> <p>5 Q. Okay. When was the divorce proceeding filed?</p> <p>6 A. February '07, I believe.</p> <p>7 Q. Where was the case filed?</p> <p>8 A. In Orange County.</p> <p>9 Q. Do you know the case number?</p> <p>10 A. It's on the document I gave to you.</p> <p>11 Q. Oh, it's on that JB6 sheet?</p> <p>12 A. Correct.</p> <p>13 Q. If you look at page -- oh, there is it is.</p> <p>14 07D001362?</p> <p>15 A. Correct.</p> <p>16 Q. Okay. Who filed the divorce proceeding?</p> <p>17 A. We both did. One was consolidated, if I recall.</p> <p>18 Q. Okay. What were the grounds stated?</p> <p>19 A. There are no grounds in California. And why is</p> <p>20 that relevant? So I wouldn't answer it anyway.</p> <p>21 Q. Well, we're looking at all assets.</p> <p>22 A. Well, you've got them right here.</p> <p>23 Q. Well, let me -- looking at, in JB4, Item No. 2,</p> <p>24 you are still currently married, and you have not filled</p> <p>25 out information about your spouse.</p>

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1 A. I'm not married. I'm in a divorce proceeding --
 2 legally separated, actually, as of '06. I have no
 3 information about her.
 4 Q. Well, you say you have no information, but you
 5 could fill out Item No. 2 -- her name, Social Security
 6 number, place of birth, date of birth.
 7 A. I'm not authorized to give that information to
 8 anybody. I'm not married to her. I don't have a spouse.
 9 I'm in a divorce proceeding. A final judgment hasn't
 10 been entered. Under California law, everything is
 11 separate property from the date of separation. I was
 12 separated sometime in '06, the summer of '06. I'm not
 13 authorized to give any information about her at all.
 14 Q. Authorized by whom?
 15 A. By her.
 16 Q. How long were you married?
 17 A. Five and a half years.
 18 Q. Your wife, her name was -- or is Stacy Emerald
 19 Benice?
 20 A. Not Benice. Stacy Emerald.
 21 Q. Emerald is her maiden name?
 22 A. Correct.
 23 Q. Do you know where she's living at this time?
 24 A. I think she still lives at 38 Remington.
 25 Q. That's the Aliso Viejo property?

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1 A. Correct.
 2 Q. Do you know if she's working at this time?
 3 A. I have no idea.
 4 Q. You said the divorce is not technically final.
 5 Have you agreed to a certain settlement at this point?
 6 A. No.
 7 Q. Item No. 31, turn to. It's in JB4, the Summary
 8 Financial Schedules. It states that you have spousal
 9 support, \$13,000 a month.
 10 A. Correct.
 11 Q. And it says "for at least 12 more months." What
 12 does that mean?
 13 A. I don't know. It's my estimate.
 14 Q. Why is it for only 12 more months? Can you
 15 explain?
 16 A. Well, I've been paying spousal support since
 17 February of '07, if that was the date the petition was
 18 filed. Under California law, spousal support, in most
 19 cases, won't exceed one-half the length of the marriage,
 20 assuming it is not a long-term marriage. A long-term
 21 marriage under California law would be defined as a
 22 marriage typically in excess of seven or eight years of
 23 duration.
 24 So my guesstimate is I won't be paying spousal
 25 support beyond the next 12 months. But whether that's

Page 20

1 accurate or not, whether my guesstimate is accurate or
 2 not, I don't know. It depends on what a court ultimately
 3 does.
 4 Q. Is that spousal support pursuant to an agreement
 5 that you made with Stacy Emerald?
 6 A. No, it's not. It's pursuant to a court order.
 7 Q. Okay. And that court order was as of
 8 February '07?
 9 A. No. There was a lengthy proceeding. I don't
 10 remember the exact date of the court orders. The
 11 original court order -- I think I identified it in these
 12 papers -- was that I was supposed to pay \$24,000 a month,
 13 I think the figure was, in combined spousal and child
 14 support. It was subsequently reduced, I believe, in
 15 October of '08, to \$13,500 in spousal support only.
 16 Q. You have a daughter, Isabella; is that right?
 17 A. Correct.
 18 Q. Is she living with you?
 19 A. Yes.
 20 Q. In Item No. 30 on the previous page --
 21 A. What page are you on again?
 22 Q. It's page 13 of JB4.
 23 A. Okay. I've got it.
 24 Q. Number 30, Transfer of Assets.
 25 A. Got it.

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1 Q. You didn't list any transfers to Stacy Emerald
 2 within the last three years. Have there been any
 3 transfers to her?
 4 A. No.
 5 Q. The property at 38 Remington in Aliso Viejo, who
 6 owns that currently?
 7 A. The name on title has always been Stacy Emerald.
 8 Q. It's always been Stacy Emerald?
 9 A. Correct. She's on the loan. It may be Stacy
 10 Emerald Benice. I don't remember. But it's always been
 11 in her name, and she's the obligor on the loan.
 12 Q. Okay. In Item No. 1 on JB4, under "Previous
 13 Addresses," you lived at the 38 Remington address --
 14 A. I'm sorry. What item?
 15 Q. Item No. 1.
 16 A. Got it.
 17 Q. And this is just information about you. It says
 18 38 Remington, Aliso Viejo, owned from 2000 to 2006. Then
 19 it says "dispute." What does that mean?
 20 A. What page are you on?
 21 Q. Page 2 of JB4, your individual financial
 22 statement.
 23 A. All right. Let me find it. Well, you asked me
 24 addresses and do I rent or own. I had a belief that I
 25 had an ownership interest in the property.

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1 Q. Okay. And is that still in dispute?
 2 A. I don't believe it will be any longer.
 3 Q. Why not?
 4 A. Because of recent California decisions.
 5 Q. What -- can you explain what you're talking
 6 about?
 7 A. There's recent cases that say that essentially,
 8 if title is held during the marriage as sole and separate
 9 by a particular person, then it is sole and separate.
 10 It's not community property.
 11 Q. When you first -- when was the property first
 12 purchased? Was that in 2000?
 13 A. I think it was 2000.
 14 Q. Okay. And do you recall what was the down
 15 payment for the house?
 16 A. No. I think it was 150,000. Something like
 17 that.
 18 Q. And do you recall who provided the down payment?
 19 A. The majority came from me.
 20 Q. Why did you put the -- or you and your wife at
 21 the time decide to put the house in her name only?
 22 A. Because she could qualify for the loan.
 23 Q. Based on what?
 24 A. I don't know. She could qualify on the loan.
 25 She had a good credit score.

Page 23

1 Q. At the time, did she have any income?
 2 A. She had income. Some.
 3 Q. What type of work did she do?
 4 A. She had been working for a construction company,
 5 but not a particular time.
 6 Q. What was her approximate income back at the
 7 time? Do you know?
 8 A. I don't know.
 9 Q. During the time that -- from 2000, from the time
 10 the house was bought, you were living there from 2000 to
 11 2006?
 12 A. Correct.
 13 Q. And who was making the mortgage payments during
 14 that time?
 15 A. I don't remember. I think she made them out of
 16 her bank account. I may have made some too. There
 17 wasn't any particular formula. The money came from me to
 18 make the payments.
 19 Q. Okay. So even the money out of her bank account
 20 came from you as well?
 21 A. For the most part.
 22 Q. On the divorce Schedule of Assets and Debts on
 23 JB6, you valued the house at 1.1 million. Then --
 24 A. Then. Then I did.
 25 Q. Okay. And it states "unknown." What does the

Page 24

1 "unknown" refer to?
 2 A. I have no knowledge of what that house is worth
 3 today. I suspect -- I've been told it's worth less than
 4 the lien amount on the first. So there's no equity in
 5 the house.
 6 Q. Can you explain what you mean by that?
 7 A. There's no equity in the house. I think the
 8 first is about \$800,000.
 9 Q. The first mortgage?
 10 A. Correct. So there's no equity. On top of that,
 11 there's an IRS tax lien on the house.
 12 Q. Right.
 13 A. That's why I don't believe payments are being
 14 made on the house any longer.
 15 Q. What is the loan history on the property? Was
 16 that first mortgage taken out in 2000? Were there any
 17 other mortgages at the time?
 18 A. The first was refinanced at some stage. I don't
 19 remember when.
 20 Q. Okay. Was there ever a home equity taken out as
 21 well?
 22 A. No.
 23 Q. So it was just the first mortgage that ended up
 24 being refinanced?
 25 A. Correct.

Page 25

1 Q. At the refinance stage, who paid the closing
 2 costs for that?
 3 A. I don't remember. I think it was refinanced
 4 when we were separated during an earlier separation. She
 5 paid it.
 6 Q. In 2006, you mentioned -- well, your statement
 7 says that you owned it from 2000 to 2006. I guess you --
 8 can you explain -- did you believe you co-owned it during
 9 that time?
 10 A. I've always believed that I had some interest in
 11 it.
 12 Q. Do you still believe that you have --
 13 A. Not if I follow what the case says.
 14 Q. You mentioned that during the divorce --
 15 A. Go ahead.
 16 Q. -- there was a forensic accounting done.
 17 A. Correct.
 18 Q. When was that finalized?
 19 A. I don't recall. It was a long process. It took
 20 about ten months.
 21 Q. Do you have a copy of that?
 22 A. Yes, I do.
 23 Q. Do you have a copy of that final accounting?
 24 A. Yes, I do.
 25 Q. Okay. I ask that you provide a copy of that.

Jeffrey Benice

June 23, 2009

Los Angeles, CA

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1 A. Okay. Just send me an e-mail to remind me.
2 Q. Of course. So is it correct, if I state that
3 the house at 38 Remington was then never sold, that
4 Stacy Emerald continues to live there and hold title
5 despite the lien?
6 A. Correct.
7 Q. When you moved out of that residence, did you
8 take any of the assets from the residence?
9 A. I took some personal property. My clothes,
10 things like that.
11 Q. The home address that you provided subsequent to
12 that, 21 Arboretum --
13 A. Correct.
14 Q. -- it states that you rented from 2006 to 2007.
15 A. I rented for a period of time, yes.
16 Q. And then you purchased it and owned it from 2007
17 to 2009?
18 A. Correct.
19 Q. It was a rent to own? Is that how it worked?
20 A. No. It was lease option deal through a broker.
21 Q. Was that a single-family home?
22 A. No. Town house.
23 Q. When you purchased it, did you own that property
24 outright?
25 A. No.

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1 Q. How was it held?
2 A. Through the brokers -- the broker was the actual
3 owner, or he had an investor in it. So I had a quitclaim
4 deed. But their loan was in somebody else's name.
5 Q. Whose name was the loan in?
6 A. I don't recall.
7 Q. What's the name of the owner of 21 Arboretum?
8 A. I don't know. It subsequently went to
9 foreclosure and was short-sold. It went to a foreclosure
10 sale, I believe.
11 Q. When was that?
12 A. Some months ago.
13 Q. Nine months ago, you say?
14 A. No. I said, "some months ago." Maybe six
15 months ago. I don't remember. It might be a year ago.
16 Q. Were you paying -- making mortgage payments?
17 A. For a period of time, yes.
18 Q. For about how long?
19 A. I don't know.
20 Q. What were the mortgage payments? Do you recall?
21 A. I think the total was about 3500 a month.
22 Q. Who were you making them to?
23 A. I don't remember specifically. It might have
24 been EMC.
25 Q. Can you spell that?

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1 A. It was just the EMC. But I might be wrong. I
2 don't remember exactly. It was a sub-prime-type loan
3 that was in vogue during that time frame.
4 Q. Were you still living in it when it was
5 foreclosed?
6 A. No.
7 Q. Who was paying for the utilities there -- the
8 water, electric, cable -- before it was foreclosed?
9 A. I did, until I had moved out.
10 Q. Why did you move out?
11 A. Because it was going to be foreclosed.
12 Q. You stopped making payments at some point?
13 A. Yes.
14 Q. How long did you make the payments for? From
15 when to when?
16 A. I just don't remember. At some period of time
17 the value dropped precipitously in the area.
18 Q. What's the loan history on that property?
19 A. I don't understand what you mean.
20 Q. Was there a first mortgage?
21 A. There was a first and a second on the property.
22 Q. Who took out the first mortgage?
23 A. It was the same person, this co-investor.
24 Q. That's the person you can't remember his name?
25 A. Correct.

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1 Q. What about the second mortgage?
2 A. Same. Same thing.
3 Q. Was it ever refinanced?
4 A. No.
5 Q. Do you know, was it sold at foreclosure?
6 A. I have no idea.
7 Q. Do you know what the balance owed was?
8 A. No. Probably in excess of \$500,000. I think
9 the loan amount was 550. I think the first and the
10 second combined was about 550. And eventually the values
11 in that community dropped under \$400,000.
12 Q. So the mortgage was not in your name, but you
13 were paying the utilities and property taxes and the
14 mortgage payment?
15 A. I never paid property taxes.
16 Q. Okay. Who paid the property taxes?
17 A. Nobody. Well, strike that. I may have made a
18 property tax payment. I just don't remember. But things
19 changed when the market went south.
20 Q. Did you have homeowners insurance?
21 A. I don't remember. I may have. I didn't have
22 homeowners -- I think I had renters insurance for a
23 while. I don't remember if I had homeowners insurance or
24 whether there was a policy that was part of the mortgage
25 I was paying. I don't remember.

Page 30	Page 32
<p>1 Q. On the JB6, the Schedule of Assets and Debts --</p> <p>2 A. Yes.</p> <p>3 Q. -- you mentioned it was worth approximately</p> <p>4 550,000. That was --</p> <p>5 A. At that point in time, I put the gross fair</p> <p>6 market value 550. Correct.</p> <p>7 Q. Under -- on that -- let's see. Where is that?</p> <p>8 Number 24, on the last page of JB6, it says "Other debts:</p> <p>9 Mortgage 21 Arboretum." Then it says "See I&E 2/22/08</p> <p>10 for other debts."</p> <p>11 A. Correct.</p> <p>12 Q. What is the I&E?</p> <p>13 A. That's just an income and expense statement.</p> <p>14 It's an income and expense statement.</p> <p>15 Q. Okay. Do you have a copy of that? Would you be</p> <p>16 able to provide that to me?</p> <p>17 A. Yeah. I can provide that. I think that just</p> <p>18 might have some credit cards that weren't on this. I</p> <p>19 don't think credit cards were on this. I don't know.</p> <p>20 They were Visa, Merrill Lynch.</p> <p>21 Q. Okay. Would you be able to provide a copy of</p> <p>22 that?</p> <p>23 A. Yeah.</p> <p>24 Q. Okay. Thank you. On JB5, the corporate</p> <p>25 statement, Item No. 22, which would be page 10 --</p>	<p>1 Q. Who is that?</p> <p>2 A. Dan Harkey.</p> <p>3 Q. And how much do you pay in rent per month?</p> <p>4 A. I identified it here. It's 6,000 a month.</p> <p>5 Q. Are you current on those payments?</p> <p>6 A. Yes.</p> <p>7 Q. Is this a lease-to-own situation as well?</p> <p>8 A. No.</p> <p>9 Q. Are you also paying the utilities on the</p> <p>10 property?</p> <p>11 A. Yes.</p> <p>12 Q. What about the property taxes?</p> <p>13 A. No.</p> <p>14 Q. Do you have any renters insurance on the</p> <p>15 property?</p> <p>16 A. I don't think so.</p> <p>17 Q. Do you own any other real estate in the</p> <p>18 United States?</p> <p>19 A. No.</p> <p>20 Q. Do you know if Stacy Emerald owns any other real</p> <p>21 estate in the United States?</p> <p>22 A. No.</p> <p>23 Q. Aside from 21 Arboretum and 38 Remington, have</p> <p>24 you, in the past five years, owned any other real</p> <p>25 property?</p>
Page 31	Page 33
<p>1 A. Page what?</p> <p>2 Q. Ten.</p> <p>3 A. Got it.</p> <p>4 Q. Okay. You stated "none" in response to the</p> <p>5 question of real property held by the corporation.</p> <p>6 A. Correct.</p> <p>7 Q. Okay. So the law firm doesn't own any property</p> <p>8 at all?</p> <p>9 A. No.</p> <p>10 Q. Okay. And --</p> <p>11 A. I sublease office space.</p> <p>12 Q. Sublease. Okay. And is there any property that</p> <p>13 you hold in trust for your daughter or for Stacy Emerald?</p> <p>14 A. No.</p> <p>15 Q. The current address that you live at, 10 Mission</p> <p>16 Ridge --</p> <p>17 A. Correct.</p> <p>18 Q. -- where is that located?</p> <p>19 A. Ladera Ranch, California.</p> <p>20 Q. And who owns that?</p> <p>21 A. I don't know. I lease that property.</p> <p>22 Q. Who do you lease it from?</p> <p>23 A. It's a real estate company called Point Center.</p> <p>24 Q. Do you have any relationship to them?</p> <p>25 A. The owner is a friend of mine, actually.</p>	<p>1 A. No.</p> <p>2 Q. And do you know if, in the past five years,</p> <p>3 Stacy Emerald has owned any other real property?</p> <p>4 A. No. When I say that I don't know, she did</p> <p>5 something I didn't know about, my own personal knowledge</p> <p>6 is, is that other than 38 Remington, she didn't own any</p> <p>7 other property.</p> <p>8 Q. In the past five years -- well, currently, do</p> <p>9 you own any real estate outside the United States?</p> <p>10 A. No.</p> <p>11 Q. And in the past five years, have you owned any</p> <p>12 outside the United States?</p> <p>13 A. No.</p> <p>14 Q. At this time, do you hold any mortgages?</p> <p>15 A. No.</p> <p>16 Q. Talking about personal property you mentioned</p> <p>17 before, if we take a look at Item No. 20 on JB4, which</p> <p>18 would be page starting at page 8 and continuing on</p> <p>19 page 9 --</p> <p>20 A. On what? JB4?</p> <p>21 Q. Right. Your individual financial statement.</p> <p>22 A. Got it.</p> <p>23 Q. Okay. You state the current value is about 8-</p> <p>24 to \$10,000 of personal property.</p> <p>25 A. I have no idea. That's a guesstimate. My</p>

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<p>1 experience is that personal property has little, if any, 2 value. And that's just from looking at Craigslist, 3 things like that. 4 Q. Okay. On JB6, you mention that you have 5 personal property worth 25,000-plus. That's under No. 2, 6 Household Furniture, Furnishings, Appliances. 7 A. That's a guesstimate. 8 Q. Can you explain the difference between the 9 25,000-plus and the 8- to 10,000? 10 A. No. I'm more realistic, given what I've learned 11 when I see information on Craigslist, today versus a year 12 ago, where personal property is sold for pennies on the 13 dollar. 14 Q. The items that you list on JB6 under this 15 25,000-plus -- sofa, table, flat screen, the dressers, 16 old paintings, photographs, books -- are those the same 17 items that you're mentioning here on JB4, the 18 miscellaneous furniture? 19 A. Yes. 20 Q. Okay. Have you sold any items from the time you 21 listed them on JB6 to the time you listed them on JB4? 22 A. No. I don't have possession of them. 23 Q. Where are they? 24 A. They're at 38 Remington. That's what it says. 25 Q. Okay. So the items you're listing on JB4, are</p>	<p>1 Harley-Davidson that she sold or took a loan against or 2 did something. 3 Q. That's listed separately, though; is that right? 4 You have that under "Other Assets" on JB6. 5 A. I don't know. That's a piece of personal 6 property that had some value. 7 Q. Okay. What about any of the other items you 8 mention in JB6? 9 A. Well, like what? 10 Q. Grand piano, photographs, oil paintings. 11 A. Yeah. It's all personal property, just standard 12 stuff. There's no Monets, no expensive pieces of art. 13 It's the standard stuff you see in a person's home. 14 Q. But you mentioned some of that is at 10 Mission 15 Ridge. What other furniture, clothes, jewelry is at 16 Mission Ridge? 17 A. Well, my personal clothes are at Mission Ridge. 18 Q. And that's it? 19 A. Well, my personal clothes and living items. 20 Vehicles that I've identified. My vehicles are at 21 Mission Ridge. 22 Q. You mention on JB6, No. 3, there's miscellaneous 23 watches, photographs, guitars, oil paintings, 24 collectables from World Series. 25 A. Correct.</p>
Page 35	Page 37
<p>1 those the same items at 38 Remington? 2 A. For the most part, yes. I believe that I 3 have -- ultimately, I'll get some kind of credit for some 4 kind of personal property at the house. It's community 5 property. 6 Q. On JB4 you list property location as 10 Mission 7 Ridge. Which property are you referring to there? 8 A. On what? Which one? 9 Q. On JB4, still at Item 20, on page 9. 10 A. Yes. My personal property is theoretically in 11 both locations, assuming she hasn't sold any more of my 12 personal property. 13 Q. Are you aware of whether Stacy Emerald has 14 sold -- 15 A. Well, I'm not aware of what she's actually done. 16 I know that there's things I've never gotten back that 17 I've asked for many times. 18 Q. Do you have a couple examples? 19 A. Yeah. My motorcycles, for example, that 20 disappeared. So I'm assuming that they're gone, sold, or 21 she did something with them. 22 Q. Which motorcycles are those? 23 A. I had a Harley-Davidson. 24 Q. How many motorcycles? 25 A. I had a Harley-Davidson. It was a 1998 custom</p>	<p>1 Q. World Series and stereo? 2 A. Correct. 3 Q. Where are those items located? 4 A. At Mission Ridge. Excuse me. At 38 Remington. 5 Q. Those are separate items worth approximately 6 25,000? 7 A. Insofar as value is concerned, I have no opinion 8 today of what anything is worth. 9 Q. But at the time you filled out this, you had -- 10 A. Yeah. I estimated. As for purposes of a 11 community property division, I gave an estimate of that 12 value. That's correct. 13 Q. Okay. But those -- what I'm seeing is two 14 different items, No. 2 and No. 3 there. Is that correct? 15 A. Correct. 16 Q. So, in total, those two different items at the 17 time totaled approximately 50,000-plus? 18 A. I don't know. Those are my estimates. 19 Q. Right. 20 A. And I believe they are grossly exaggerated at 21 this stage, just based on what I've subsequently learned 22 about values of personal property from perusing 23 Craigslist and eBay. 24 Q. As far as you know, have you sold any of those 25 items in No. 2 or No. 3?</p>

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<p>1 A. No.</p> <p>2 Q. Do you have any of these pieces of jewelry at</p> <p>3 your location in 10 Mission Ridge?</p> <p>4 A. I have watches that I wear.</p> <p>5 Q. What are the watches worth that you own?</p> <p>6 A. I have no idea. I have some -- I have a friend</p> <p>7 who's in the jewelry business, and he gets knock-off</p> <p>8 watches that I pay \$100 for that look like a</p> <p>9 thousand-dollar watch. I'm assuming they're not worth</p> <p>10 anything. I have a Rolex that I bought about 20 years</p> <p>11 ago for \$2500. But I don't give estimates of value,</p> <p>12 given what goes on this marketplace today.</p> <p>13 Q. Aside from the Rolex, do you have any other</p> <p>14 jewelry that --</p> <p>15 A. A pair of cufflinks that -- pardon me?</p> <p>16 Q. Aside from the Rolex you mentioned, do you have</p> <p>17 any other jewelry or artwork that's worth more than \$500?</p> <p>18 A. I have a pair of cufflinks I bought probably 20</p> <p>19 years ago. I think I spent \$1800 on them.</p> <p>20 Q. Also on JB6, under No. 16, under "Other Assets,"</p> <p>21 you listed photographs for charitable art deduction --</p> <p>22 A. Correct.</p> <p>23 Q. -- worth 100,000 at the time.</p> <p>24 A. Correct.</p> <p>25 Q. What were those?</p>	<p>1 A. No, I did not.</p> <p>2 Q. Have you seen any proceeds from it?</p> <p>3 A. I wish I did. No.</p> <p>4 Q. And you also mention the 2007 Ducati 748. Is</p> <p>5 that also a motorcycle?</p> <p>6 A. Correct.</p> <p>7 Q. Have you --</p> <p>8 A. I have possession of that vehicle.</p> <p>9 Q. You have it at 10 Mission Ridge?</p> <p>10 A. Correct.</p> <p>11 Q. Going back to JB4, looking at Item No. 21, the</p> <p>12 vehicles, you've listed three different automobiles here.</p> <p>13 Are you leasing all three of those automobiles?</p> <p>14 A. Which one are you at now?</p> <p>15 Q. JB4, Item No. 21.</p> <p>16 A. Yes. Let me just double-check. I'm leasing the</p> <p>17 BMW and the Porsche. The Jeep, I think, is a purchase.</p> <p>18 I'm uncertain about that. It's either a purchase or a</p> <p>19 lease. It's a purchase. It's not a lease.</p> <p>20 Q. Okay. So let me go through them one by one.</p> <p>21 The BMW, that's a 2003 BMW 745?</p> <p>22 A. Correct.</p> <p>23 Q. And how much are you paying per month on that?</p> <p>24 A. \$700. Something like that.</p> <p>25 Q. 750 a month?</p>
Page 39	Page 41
<p>1 A. Every year I have been in a tax shelter program</p> <p>2 where photographs are purchased, held for a year and a</p> <p>3 day, and then donated to a museum. I've been doing that</p> <p>4 since about 2001, I think.</p> <p>5 Q. Do you have any of those currently?</p> <p>6 A. No. My last donation was made last year.</p> <p>7 Q. In 2008?</p> <p>8 A. Correct. I think it was 2007. I would have to</p> <p>9 look.</p> <p>10 Q. Okay.</p> <p>11 A. I did not make a 2008 deduction.</p> <p>12 Q. Okay.</p> <p>13 A. Excuse me. Contribution.</p> <p>14 Q. In that same section you also listed the</p> <p>15 Harley-Davidson. Is that the motorcycle you were just</p> <p>16 talking about earlier?</p> <p>17 A. I don't have it in front of me. Which one are</p> <p>18 you looking at again?</p> <p>19 Q. JG6, Item No. 16, under "Other Assets."</p> <p>20 A. Correct.</p> <p>21 Q. That's the motorcycle that you haven't seen but</p> <p>22 you believe it was last seen at the Aliso Viejo --</p> <p>23 A. Yeah. I understand that it was sold or made to</p> <p>24 disappear. Yes.</p> <p>25 Q. But you did not sell it?</p>	<p>1 A. Something like that, yeah.</p> <p>2 Q. Are you current on those payments?</p> <p>3 A. Yes.</p> <p>4 Q. And the 2004 Porsche Turbo, you're paying 1200 a</p> <p>5 month?</p> <p>6 A. Approximately, yes.</p> <p>7 Q. And are you current on that?</p> <p>8 A. Yeah.</p> <p>9 Q. And those leases are in your name?</p> <p>10 A. Yes.</p> <p>11 Q. Are you paying -- are you making those payments,</p> <p>12 or is someone making them on your behalf?</p> <p>13 A. I make them.</p> <p>14 Q. When do the leases expire?</p> <p>15 A. I don't know.</p> <p>16 Q. Have you paid any of it in advance?</p> <p>17 A. No.</p> <p>18 Q. You said the Jeep Wrangler --</p> <p>19 A. Well, let me make sure. These leases were</p> <p>20 rewritten to reduce the payments because I was in</p> <p>21 default. This is about eight months ago. I paid a</p> <p>22 total, I think, of 8- or 9,000 dollars to have the leases</p> <p>23 rewritten and the payments reduced. So I think these</p> <p>24 leases are now like two or three years out.</p> <p>25 Q. Okay. So you said -- how long were you in</p>

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<p>1 default for?</p> <p>2 A. I think, 90 days. Something like that. I don't</p> <p>3 remember precisely, but it was more than two payments.</p> <p>4 Q. And you had to pay approximately 8- to 9,000</p> <p>5 dollars?</p> <p>6 A. Well, one of the cars was repossessed. The BMW</p> <p>7 was repossessed. I was confronting such a loss on that</p> <p>8 car, according to the leasing company, that they agreed</p> <p>9 to work something out with me so I wouldn't be hit with</p> <p>10 like a \$20,000 loss just on that vehicle to rewrite these</p> <p>11 leases.</p> <p>12 Q. Okay. So you made an 8- to 9,000 dollar</p> <p>13 payment --</p> <p>14 A. That's my recollection, yes.</p> <p>15 Q. Where did you get the money for those?</p> <p>16 A. I don't remember. Out of my wages.</p> <p>17 Q. The Jeep Wrangler, you said you purchased that?</p> <p>18 Is that --</p> <p>19 A. Well, I said I don't recall. I said I suspect</p> <p>20 it's a purchase. But I'm not completely certain.</p> <p>21 Q. How can you find out?</p> <p>22 A. I'll just look at the -- through Chrysler.</p> <p>23 Q. Okay. I'd ask that you provide that</p> <p>24 information, please. For the Jeep, is it correct you're</p> <p>25 paying approximately \$550 per month?</p>	<p>1 It was bought several years ago.</p> <p>2 Q. Did you have to rewrite the lease on that one as</p> <p>3 well?</p> <p>4 A. No. It's not a lease. It's a purchase.</p> <p>5 Q. It was a purchase.</p> <p>6 A. Yeah.</p> <p>7 Q. Okay. You also had -- we had just talked about</p> <p>8 there was also a 2007 Ducati. Do you own that one</p> <p>9 outright?</p> <p>10 A. No. What 2007 Ducati?</p> <p>11 Q. That was the one listed on JB6, No. 16. 2007</p> <p>12 Ducati 748.</p> <p>13 A. That's a typo. It's a 2001 Ducati 748.</p> <p>14 Q. Okay.</p> <p>15 A. It was acquired in 2007.</p> <p>16 Q. Okay.</p> <p>17 A. Yeah. It's an '01 Ducati.</p> <p>18 Q. And that one you said you have with you at</p> <p>19 10 Mission?</p> <p>20 A. Correct.</p> <p>21 Q. Do you own that one outright?</p> <p>22 A. Correct.</p> <p>23 Q. That does not have a lien on it?</p> <p>24 A. Correct.</p> <p>25 Q. Do you own or lease any other vehicles?</p>
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<p>1 A. Correct.</p> <p>2 Q. And you're current on that as well?</p> <p>3 A. Correct.</p> <p>4 Q. And you're making those payments?</p> <p>5 A. Correct.</p> <p>6 Q. The motorcycle you have listed here on JB4 is a</p> <p>7 2005 Ducati 999R?</p> <p>8 A. Correct.</p> <p>9 Q. Do you own that one outright?</p> <p>10 A. No. There's a lien on it.</p> <p>11 Q. Okay.</p> <p>12 A. It's in my name.</p> <p>13 Q. It's in your name. Okay. You're making</p> <p>14 payments on that one as well?</p> <p>15 A. Correct.</p> <p>16 Q. \$602?</p> <p>17 A. I think that's it, yes.</p> <p>18 Q. That has approximately \$8500 value?</p> <p>19 A. That's my guesstimate.</p> <p>20 Q. How much is still owed on it?</p> <p>21 A. About 10,500.</p> <p>22 Q. Was that the purchase price?</p> <p>23 A. No.</p> <p>24 Q. What was the purchase price?</p> <p>25 A. I don't remember. It was in excess of \$20,000.</p>	<p>1 A. No.</p> <p>2 Q. Can you explain your telling us here that you're</p> <p>3 insolvent but you're paying to lease two different cars,</p> <p>4 paying on another car, and making payments on another</p> <p>5 motorcycle --</p> <p>6 A. Whoa, whoa, whoa.</p> <p>7 Q. -- for \$3100 a month?</p> <p>8 A. I don't know -- I'm not aware that somebody</p> <p>9 who's told you they make, on average, \$400,000 a year is</p> <p>10 insolvent. I haven't said that.</p> <p>11 Q. But yet you still have not turned over any money</p> <p>12 whatsoever to the FTC.</p> <p>13 A. Well, why would I do that? I don't have these</p> <p>14 retainer funds. I have an appeal. The appeal is going</p> <p>15 to reverse the court's erroneous order. But so it's</p> <p>16 clear, this order, apparently there was a belief there</p> <p>17 was still retainer funds. I don't know where that belief</p> <p>18 ever came from, since it was very clear from the</p> <p>19 submissions to the court that those funds had been used</p> <p>20 for Mr. Castro's defense several years ago. So that's</p> <p>21 where that's at.</p> <p>22 I'm not saying I'm insolvent. That's why I</p> <p>23 provide you this information. And people are insolvent</p> <p>24 don't pay 10,000 a month in support. I have issues with</p> <p>25 the IRS that are ongoing. That's made me insolvent in</p>

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1 terms of my ability to get financing of anything, and I
 2 provided you with that.
 3 Q. So you're not telling us you're insolvent;
 4 you're just not paying the 238,000 because you're saying
 5 that you don't have that in the retainer fund.
 6 A. No, no. So it's very clear, first, I'm not
 7 paying it because, one, those retainer funds were
 8 expended multiple years ago; and all that information was
 9 filed with the court. Number two, I've appealed the
 10 court's order. There's a high likelihood it's going to
 11 be reversed. Number three -- and apparently you didn't
 12 look clearly at the documents -- I have other issues I'm
 13 dealing with that take precedence over you, starting with
 14 the IRS and support under a court order.
 15 Q. This court order here in Section V(E) that you
 16 have tells you to immediately segregate \$238,300. It
 17 doesn't say from where, does it?
 18 A. It says segregate \$238,300.
 19 Q. But you haven't --
 20 A. -- from my professional law corporation.
 21 Q. Right. And from your professional law
 22 corporation, you have not separated \$238,300.
 23 A. That's correct.
 24 Q. You have -- this order, I know you said it's on
 25 appeal, but it's not stayed. Is that correct?

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1 A. I'm going to file an application to stay, if
 2 need be. But that's -- well, that's an interesting
 3 question. I'm uncertain whether, under the Ninth Circuit
 4 rules, this notice is stayed by the notice of appeal.
 5 There's a question about that. But, yes. I'm not aware
 6 of a formal stay order.
 7 Q. Okay. Just going back, did you have any other
 8 ownership interest in any other kind of vehicle, a boat
 9 or a plane, anything like that?
 10 A. No. You mean now; correct?
 11 Q. Yes. And in the past five years.
 12 A. No. About 15 years ago, I owned a boat for a
 13 short period of time.
 14 Q. Do you currently have a life insurance policy?
 15 A. No. I'm in application to get one. I had a
 16 prior, I think, million or 2 million dollar term life
 17 policy -- I thought I identified it; I may have
 18 identified it in my divorce -- that expired or it went
 19 out of force. It was a term policy. The only policy I
 20 currently have is a \$250,000 policy that's identified
 21 somewhere in here.
 22 Q. Yeah. That's on JB4. You listed it under Item
 23 No. 18.
 24 A. Correct.
 25 Q. Does that \$250,000 policy have a cash surrender

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1 value?
 2 A. No.
 3 Q. And that's through Prudential?
 4 A. Correct.
 5 Q. Do you know how much the premiums are?
 6 A. It was prepaid for one year. I think it was
 7 \$900.
 8 Q. Did you pay that?
 9 A. Yes.
 10 Q. Actually, on the Schedule of Assets in the
 11 divorce proceedings, JB6, No. 10, I believe you stated
 12 there was no life insurance with a cash surrender or loan
 13 value.
 14 A. That's true. There never was.
 15 Q. Okay.
 16 A. So it's clear, the prior million-dollar-plus
 17 that I did have were straight term life insurance
 18 policies.
 19 Q. Okay.
 20 A. You pay a premium. If you die, they pay
 21 insurance. There is otherwise no cash value.
 22 Q. Okay. And you said those expired?
 23 A. Yes. I think the better term is I believe I
 24 missed a premium and did not get it repaid in time. So I
 25 had to go back through a process that isn't concluded yet

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1 of attempting to get another policy to replace it.
 2 Q. Who is that one through?
 3 A. I don't know. I'm using a broker. I don't know
 4 who it's going to be through.
 5 Q. Okay. Do you maintain any individual retirement
 6 plans or a pension?
 7 A. No.
 8 Q. In JB6, on No. 12, you listed under "Retirement
 9 and Pensions" "See attached First Bank and see attached
 10 Brobeck, Phleger & Harrison retirement state." One was
 11 worth -- the First Bank one was 28,000-plus, and the
 12 other one unknown.
 13 Do you still currently hold those?
 14 A. Well, the First Bank account was closed some
 15 time ago.
 16 Q. When was that?
 17 A. I don't remember. The money was taken out to
 18 pay taxes, I believe. And I have a retirement plan from
 19 my former employer Brobeck, Phleger & Harrison that kicks
 20 in at age 70, as I understand it.
 21 Q. So the First Bank one, at the time --
 22 A. It was either a 401(k) or a pension. It had
 23 about 28-, 25,000 dollars in it. It was closed.
 24 Q. You said, the money, you used it to pay taxes?
 25 A. I believe I used it to pay taxes and just

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<p>1 operating expenses. 2 Q. Operating expenses for the firm? 3 A. Correct. 4 Q. And the other one is still currently held by 5 your former employer, Brobeck, Phleger & Harrison? 6 A. Correct. 7 Q. You have a -- do you get a statement from that? 8 A. No. 9 Q. Do you have any idea of the approximate current 10 value? 11 A. None, as I understand it. It's just a 12 retirement that at age 70 you get to draw retirement from 13 your employment at that firm. 14 Q. Can you take out loans against it? 15 A. Not that I'm aware of. 16 Q. What do you get at age 70? Do you know how much 17 you get to take out? 18 A. I think it's \$3500. I'm not certain about that. 19 Q. Per month? 20 A. Correct. 21 Q. Other than that, you don't currently have any 22 type of 401(k) or retirement plan? 23 A. Correct. I do have -- I don't know if it's in 24 here. I have a 512 savings plan for my child. I think 25 it has \$5,000 in it. It's under her name.</p>	<p>1 Q. It's Item No. 8, page 4. 2 A. Okay. "Pending lawsuits filed by you or your 3 spouse." I misread it, and I put the IRS case there. 4 Q. That's what I thought. Aside from the divorce 5 proceedings, you don't have any lawsuits filed by you 6 pending? 7 A. Correct. 8 Q. And then the ones pending against you, that's 9 the U.S. v. Benice tax case? 10 A. Correct. 11 Q. And are there any other pending? 12 A. Well, I think I identified that FAM case and 13 Doan are two cases that -- Doan has not been resolved. 14 It's a collection case. 15 Q. What is that? 16 A. A collection case. 17 Q. Is that a former client? 18 A. No. It was a promissory note I co-signed with a 19 potential partner in a real estate transaction that went 20 south for \$200,000. We're both being sued. 21 Q. When did you sign that promissory note? 22 A. I don't remember. I think three years ago. 23 Three or four years ago. 24 Q. Did you put any money down? 25 A. No. This was a loan from the plaintiff.</p>
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<p>1 Q. Okay. I did not see that in here. No. Are you 2 currently contributing to that? 3 A. Periodically. 4 Q. I'm sorry? 5 A. I said, "periodically." 6 Q. Where is that held? 7 A. I don't know. It's not at a bank. It's through 8 some kind of a savings plan company for children's 9 education. 10 Q. Have you filed bankruptcy in the last ten years? 11 A. No. I filed bankruptcy in 1995, I think. 12 Q. What was the financial resolution of that? 13 A. A discharge. 14 Q. What was that under? Chapter -- 15 A. Seven. It was filed as an eleven and converted 16 to a seven. 17 Q. Item No. 8 on JB4 -- 18 A. Correct. 19 Q. -- lawsuits filed by you. 20 A. I'm sorry. Which one is it? 21 Q. Item No. 8, JB4. 22 A. JB4. I don't have any lawsuits that I filed. 23 Q. Okay. 24 A. What number is that, just so I can double-check 25 it here?</p>	<p>1 Q. They were taking a loan from you? 2 A. No. They were making a loan to the person I was 3 involved in the transaction with, and I agreed to 4 co-sign. 5 Q. I see. That's for 200,000? 6 A. Correct. 7 Q. What's the nature of the other case, the FAM? 8 A. Same kind of thing. Same kind of transaction. 9 A real estate transaction. 10 Q. Did you put any money down on that? 11 A. No. 12 Q. Was that also a promissory note that you 13 co-signed? 14 A. No. But the upshot is that was essentially 15 settled for, I think, 200 grand, to be paid in like 16 18 months. 17 Q. So that was a settlement agreement by you? 18 A. By my then partner and myself, yes. 19 Q. Are you making payments on that -- 20 A. No. 21 Q. -- currently? 22 A. No. No payments will be due for some period of 23 time. 24 Q. When are those due? 25 A. I think I said I think it's 18 months.</p>

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1 Q. Okay. Does the final total have to be due in
 2 18 months, or do you start making payments --
 3 A. No. Final total.
 4 Q. And how much of it will you owe?
 5 A. Well, assuming my partner agrees with what he's
 6 supposed to do, it will be one-half of that.
 7 Q. So 100,000 for you?
 8 A. Correct.
 9 Q. And aside from the divorce proceedings, have you
 10 been a party to any other lawsuits in the last five
 11 years?
 12 A. From time to time, yes.
 13 Q. And the nature of those cases?
 14 A. Standard stuff.
 15 Q. I'm sorry?
 16 A. Standard kinds of things from adversaries in
 17 lawsuits. Things like that.
 18 Q. What were the names of those cases?
 19 A. I don't remember them all. I don't remember
 20 them.
 21 Q. Just in the last five years.
 22 A. I'm trying to remember a name. There's one in
 23 Long Beach filed by a third party against my clients and
 24 myself. I can't remember the name of it. You can leave
 25 a blank if you want, and I'll plug it in.

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1 Q. Okay. If you could provide that information.
 2 A. Uh-huh.
 3 (INFORMATION REQUESTED: _____
 4 _____)
 5 BY MS. SCHNEIDER:
 6 Q. Are there any other money judgments against you
 7 currently?
 8 A. I think in that IRS case, on the caption,
 9 there's a couple of money judgments that I wasn't
 10 actually aware of.
 11 Q. Okay. I mean aside from the IRS case --
 12 A. No.
 13 Q. -- and the FAM and the Doan cases, are there any
 14 other judgments?
 15 A. No.
 16 Q. Any judgments in your favor out there? Does
 17 anybody owe you money on any judgments?
 18 A. No.
 19 Q. Aside from the tax lien on the Aliso Viejo
 20 property, are there any other tax liens that you have?
 21 A. Well, that tax lien is a blanket. It's not just
 22 on that property. It's a tax lien.
 23 Q. Okay.
 24 A. But, no. Everything that I'm aware of is
 25 identified in that lawsuit.

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1 Q. Do you have any trusts that you've created on
 2 someone's behalf?
 3 A. No.
 4 Q. None for Isabella?
 5 A. No.
 6 Q. Are you a trustee of any trusts?
 7 A. No.
 8 Q. Now, under the bank accounts, you stated that
 9 you don't have any personal bank accounts.
 10 A. No. I put the personal bank account down there.
 11 Q. I saw a First Bank. I thought that was just --
 12 A. I think I put my LBS account down here. What
 13 page are you on?
 14 Q. Okay. Let me go back to -- where is that? Is
 15 that page 6?
 16 A. Yes. LBS Financial.
 17 Q. Okay. That's a checking account?
 18 A. Correct.
 19 Q. LBS. Okay. I thought it was UBS. LBS is
 20 your --
 21 A. Personal checking account.
 22 Q. I also forgot to mention at the beginning all of
 23 these documents that are in -- for the purposes of this
 24 deposition, I have redacted all personally identifiable
 25 information for account numbers, Social Security number,

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1 and everything --
 2 A. Okay. Good.
 3 Q. -- that the court reporter --
 4 A. I see that on here.
 5 Q. -- are out there, aside from what you've given
 6 us, I have blacked out. So the first -- the LBS account
 7 has approximately \$1,000?
 8 A. It did on that day.
 9 Q. And do you have any other personal bank
 10 accounts?
 11 A. No.
 12 Q. The business checking account you have that you
 13 listed on JB5, that's the First Bank account?
 14 A. Correct.
 15 Q. Is that a checking account as well?
 16 A. Yes. That's a business checking account.
 17 Q. On that date, May 24th, I guess it had a balance
 18 of approximately \$1500.
 19 A. To my memory, yes.
 20 Q. Item No. 20 on JB5, cash on hand.
 21 A. Item No. 20, JB5?
 22 Q. Right. That's the corporate statement.
 23 A. Okay. What number?
 24 Q. Item No. 20. It's page 9.
 25 A. Got it.

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<p>1 Q. It stated the firm had \$20,000 cash on hand.</p> <p>2 A. Not in bank accounts.</p> <p>3 Q. Well, that's why I'm confused then, because you</p> <p>4 say the First Bank account on that date had \$1500 --</p> <p>5 A. Well, I think that was probably -- that was</p> <p>6 probably money in my trust account. I think I was just</p> <p>7 looking at my bank statements.</p> <p>8 Q. Which trust account is that?</p> <p>9 A. My attorney-client trust account.</p> <p>10 Q. Oh, I see. Where is that held? Is that also</p> <p>11 held at First Bank?</p> <p>12 A. Yes, it is.</p> <p>13 Q. Okay. So that cash on hand is cash that's kept</p> <p>14 in the attorney-client trust account?</p> <p>15 A. Correct.</p> <p>16 Q. Are there any other corporate trust accounts</p> <p>17 that you have?</p> <p>18 A. No.</p> <p>19 Q. Who can withdraw money on those accounts, on the</p> <p>20 First Bank trust account?</p> <p>21 A. Me.</p> <p>22 Q. And the First Bank business checking?</p> <p>23 A. Me.</p> <p>24 Q. Anyone else?</p> <p>25 A. No.</p>	<p>1 business accounts?</p> <p>2 A. No.</p> <p>3 Q. Looking at Item No. 29 on JB5 --</p> <p>4 A. Yes.</p> <p>5 Q. -- Compensation of Employees. You listed your</p> <p>6 income a year ago approximately 460,000.</p> <p>7 A. That's what my tax return is going to say, as I</p> <p>8 understand it.</p> <p>9 Q. Okay. The current year-to-date, you don't know.</p> <p>10 A. Unknown.</p> <p>11 Q. Do you pay yourself a weekly salary or a monthly</p> <p>12 salary or something like that?</p> <p>13 A. No.</p> <p>14 Q. How do you pay yourself?</p> <p>15 A. When there's money to pay me.</p> <p>16 Q. How do you pay yourself? Do you write a check</p> <p>17 out of the business checking --</p> <p>18 A. Yes.</p> <p>19 Q. -- and deposit it?</p> <p>20 A. Or I write a check. I deposit my LBS account or</p> <p>21 I pay my bills -- my personal bills out of my LBS</p> <p>22 account.</p> <p>23 Q. But under the compensation of employees you</p> <p>24 didn't list the other three employees.</p> <p>25 A. Yeah. I didn't think that that was being asked</p>
Page 59	Page 61
<p>1 Q. For your -- the corporate for the law office,</p> <p>2 how many employees do you have?</p> <p>3 A. Four. Excuse me. Three. Well, four, including</p> <p>4 me.</p> <p>5 Q. Okay. Who are they?</p> <p>6 A. Sebastian Ragazzo, Cindi Martin, and Catherine.</p> <p>7 I can't remember her last name.</p> <p>8 Q. How are your employees paid? Are they paid</p> <p>9 weekly or --</p> <p>10 A. Weekly.</p> <p>11 Q. What are their weekly salaries?</p> <p>12 A. I think Cindi is 875. Catherine is 600.</p> <p>13 Sebastian is 1275.</p> <p>14 Q. What funds are they paid out of? Are they paid</p> <p>15 out of the business checking?</p> <p>16 A. Business operating account.</p> <p>17 Q. That's the First Bank business checking account?</p> <p>18 A. Correct.</p> <p>19 Q. Are they paid out of any other account?</p> <p>20 A. No.</p> <p>21 Q. Are there any other business accounts?</p> <p>22 A. No.</p> <p>23 Q. Are you still there?</p> <p>24 A. Yes.</p> <p>25 Q. I thought I lost you. Are there any other</p>	<p>1 for.</p> <p>2 Q. Okay. So on the tax returns you gave us, the</p> <p>3 2007 tax returns under JB7 --</p> <p>4 A. That tax return is a work in progress because of</p> <p>5 the audit that I'm involved in.</p> <p>6 Q. Right.</p> <p>7 A. This is a rough draft that my accountant has</p> <p>8 done that is still subject to revision, downward</p> <p>9 revision --</p> <p>10 Q. Okay.</p> <p>11 A. -- because of disputes with the IRS about</p> <p>12 certain issues.</p> <p>13 Q. On this you list your salary. Your biggest</p> <p>14 expense, basically, is the salary, \$650,235.</p> <p>15 A. Where is that at? That's not my salary.</p> <p>16 Q. That's under the -- where it says "Federal</p> <p>17 Statements." It looks like the fifth page in. It's</p> <p>18 under "Legal and Professional."</p> <p>19 A. Well, that's probably my accountant including</p> <p>20 all employee salaries --</p> <p>21 Q. Okay.</p> <p>22 A. -- and all costs that he's allocating to that.</p> <p>23 I can't speak to what he as an accountant is doing, but</p> <p>24 that's not my salary.</p> <p>25 Q. Okay. So you believe that that encompasses your</p>

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<p>1 employees that you mentioned?</p> <p>2 A. Correct.</p> <p>3 Q. On that first page of that draft on JB7,</p> <p>4 Item No. 13 lists salaries and wages (less employment</p> <p>5 credits). It says \$56,783.</p> <p>6 A. Right.</p> <p>7 Q. Okay. Does that sound right to you?</p> <p>8 A. I don't know what that is.</p> <p>9 Q. You don't know what that includes?</p> <p>10 A. I don't know what he's putting in there. I</p> <p>11 mean, that's obviously not the salaries of my employees,</p> <p>12 and he does my payroll taxes every month. So I don't</p> <p>13 know what that is.</p> <p>14 Q. Okay. I guess you're the sole owner of the law</p> <p>15 firm.</p> <p>16 A. Correct.</p> <p>17 Q. So as far as compensation of board members and</p> <p>18 officers, you listed none.</p> <p>19 A. Doesn't exist.</p> <p>20 Q. You listed under Item No. 23 in JB5 the value of</p> <p>21 furniture, computers, phone, etc., as approximately</p> <p>22 \$10,000.</p> <p>23 A. That's a very rough guesstimate.</p> <p>24 Q. And is that all property that is owned --</p> <p>25 A. What item is that?</p>	<p>1 precisely. But I know that we were going through a file</p> <p>2 throw-out and retention thing; get rid of a bunch of</p> <p>3 stuff and not pay storage fees.</p> <p>4 Q. Are there any other business financial accounts</p> <p>5 on which you are a signatory?</p> <p>6 A. No.</p> <p>7 Q. And are there any other personal financial</p> <p>8 accounts on which you are a signatory?</p> <p>9 A. No.</p> <p>10 Q. Aside from the -- what is it? The 529 account</p> <p>11 or the 512 account?</p> <p>12 A. 512.</p> <p>13 Q. The one you said you had for Isabella?</p> <p>14 A. Correct.</p> <p>15 Q. On JB4, Item No. 5, you mention you have a</p> <p>16 \$7,000 savings account for her.</p> <p>17 A. Which number is it?</p> <p>18 Q. It's No. 5. Wait a minute. I'm sorry. Oh, I'm</p> <p>19 sorry. It's on JB6, Item No. 5.</p> <p>20 A. JB6, Item 5. What page? Okay. I see it. Yes.</p> <p>21 That's what it was worth then, before the stock market</p> <p>22 caused it to lose about \$1500 of value.</p> <p>23 Q. Okay. So that's the same account that --</p> <p>24 A. Yes, yes.</p> <p>25 Q. Okay. That's not a separate account?</p>
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<p>1 Q. Item No. 23.</p> <p>2 A. Because virtually all these items are on leases.</p> <p>3 It says "unknown/leased."</p> <p>4 Q. Okay.</p> <p>5 A. Under "Acquisition Cost."</p> <p>6 Q. So all of those items are under lease?</p> <p>7 A. I have some furniture, desks, that aren't</p> <p>8 leased. I think I have a couple of PCs that aren't</p> <p>9 leased; but my copiers and my copying system, that stuff</p> <p>10 is all on leases at Xerox.</p> <p>11 Q. Approximately what's the value of the furniture</p> <p>12 and desks and PCs that you own?</p> <p>13 A. I don't know. Worthless. A thousand dollars.</p> <p>14 And again, that's just based on what I see, other office</p> <p>15 liquidations, what you can buy things for.</p> <p>16 Q. Does your firm rent any other space or storage</p> <p>17 facility?</p> <p>18 A. I don't know if I still have a storage facility</p> <p>19 for files. I think we're trying to shut that down or we</p> <p>20 had shut it down. I'd have to ask my administrator. I</p> <p>21 think I had a small storage facility for files, but I</p> <p>22 think we shut it down some months ago because we threw</p> <p>23 the files out.</p> <p>24 Q. You said it was a few months ago?</p> <p>25 A. I said several months ago. I don't know when</p>	<p>1 A. It's some kind of a little mutual fund or</p> <p>2 something, and it lost value.</p> <p>3 Can I take a one-minute break to use the rest</p> <p>4 room real quick?</p> <p>5 Q. Sure. Go right ahead.</p> <p>6 MS. SCHNEIDER: Off the record now.</p> <p>7 (Brief recess was taken.)</p> <p>8 MS. SCHNEIDER: We're back on the record.</p> <p>9 Q. Did you also have any brokerage account?</p> <p>10 A. Some time ago.</p> <p>11 Q. When was the last time you owned the brokerage</p> <p>12 account?</p> <p>13 A. I don't recall. I'm sure it's on one of these</p> <p>14 documents.</p> <p>15 Q. I know -- let's see. Looking at JB6, Item</p> <p>16 No. 11 --</p> <p>17 A. Correct. I had a stock summary statement that I</p> <p>18 had attached. At the time I had about \$12,000 that was</p> <p>19 subsequently liquidated to pay operating expenses and/or</p> <p>20 taxes or bills.</p> <p>21 Q. Okay. You liquidated that approximately when?</p> <p>22 A. Over a year ago, to my memory.</p> <p>23 Q. And the One Touch stock certificate --</p> <p>24 A. Correct.</p> <p>25 Q. -- you say the value was unknown. What is that?</p>

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1 A. I have no idea. It's just a private company. I
 2 didn't put any money in the company. A former client
 3 gave me the certificate because he couldn't pay me fees.
 4 Q. Have you looked up what the stock would be
 5 worth?
 6 A. It's not worth anything, as I understand it. By
 7 that I mean it's a privately held company. They don't
 8 give an opinion of value.
 9 Q. What's the percentage of stock that you own in
 10 that company?
 11 A. I don't know. It's not significant. I'm not
 12 part of the company. I'm not a board member or manager.
 13 As I said, it was a small certificate, small amount of
 14 stock given to me to try to recompense me for legal fees
 15 that were due.
 16 Q. Do you get any dividends from that?
 17 A. No.
 18 Q. Was that the last brokerage account that you
 19 owned, the one in 2007 that was sold about a year ago?
 20 A. Correct.
 21 Q. Otherwise, do you have any other mutual funds
 22 or --
 23 A. No.
 24 Q. Do you have any financial accounts outside of
 25 the U.S.?

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1 A. No.
 2 Q. Have you had any other financial accounts in the
 3 last five years, other than what's mentioned here?
 4 A. I'd have to think about that. I don't know.
 5 From time to time in the past five years, I may have
 6 bought some stock or had a stock account. I had that
 7 401(k). There was something at First Bank. I mean, all
 8 of which ended up being closed or not used.
 9 Q. Do you have any CDs?
 10 A. No.
 11 Q. I think you answered on JB4 you don't have a
 12 safe deposit box.
 13 A. Correct.
 14 Q. Is there anybody holding any assets in a safe
 15 deposit box on your behalf?
 16 A. No.
 17 Q. You mentioned on JB4, Item No. 26, there was a
 18 \$100,000 loan. You owe money to J. Lovenof?
 19 A. Greulich, yes.
 20 Q. I'm sorry?
 21 A. Correct.
 22 Q. Who is that? What was the loan for?
 23 A. He is a private lender, and that money is money
 24 he loaned me to operate my law firm.
 25 Q. When did you take out that loan?

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1 A. I think it was two years ago. It was either a
 2 year or two years ago. I don't remember when.
 3 Q. Are you making payments on that loan?
 4 A. Yes. Hello?
 5 Q. Hello.
 6 A. I said yes.
 7 Q. Okay. What are the payments you're making?
 8 A. It averages like, I think, 2500 a month.
 9 Q. And how much is left on that?
 10 A. I think I currently owe 98,000 on it.
 11 Q. The JB6, the schedule from the divorce
 12 proceedings, Item No. 22. It states that --
 13 A. Correct.
 14 Q. -- took out loan 39,500 and \$25,000?
 15 A. Correct.
 16 Q. And those were from Eugene Ong?
 17 A. Correct.
 18 Q. And D. Ha?
 19 A. Correct.
 20 Q. What were the purpose of those loans?
 21 A. Operational cash flow of my law firm.
 22 Q. Is that money repaid?
 23 A. Yes.
 24 Q. When did you repay it?
 25 A. Some time ago.

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1 Q. What funds did you use to repay those loans?
 2 A. The business funds. Just so it's clear, Mr. Ong
 3 was also a client. I think there was -- as I recall,
 4 there was an offset of some portion of these loans
 5 against fees that he owed me.
 6 Q. Against what?
 7 A. Fees that he owed.
 8 Q. Oh, fees. Okay.
 9 A. Yeah.
 10 Q. Your firm or you personally were making over
 11 \$400,000 the past couple of years. Can you explain what
 12 you needed the business loans for?
 13 A. Absolutely.
 14 Q. Okay.
 15 A. There might be a month where nobody pays me at
 16 all. Then I have no cash flow. Or there might be two
 17 months where I have minimum cash flow or minimum clients.
 18 That's just the nature of running a law firm.
 19 And on top of that, I was confronted with a
 20 standing court order to pay support and having to pay
 21 forensic accountants thousands of dollars to straighten
 22 out a court order that initially said I was supposed to
 23 pay 24,000 a month in support.
 24 Q. Did you fight that court order?
 25 A. Absolutely.

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<p>1 Q. The forensic accounting you mentioned, did that 2 include Stacy Emerald's assets and income as well? 3 A. That's not how it was done. It's purely based 4 on what my income was to calculate support. 5 Q. Can you explain like why -- why did she get 6 support? What did you get in return? 7 A. For what? In California there's a spousal 8 support obligation. You don't get anything in return. 9 It's just what the law is. 10 Q. She wasn't working at the time? 11 A. That's correct. But it doesn't matter. There's 12 still a spousal support obligation, and her income would 13 be calculated into it. In fact, if I recall, the court, 14 in calculating the support order, imputed income to her, 15 I think, of 2,000 a month. 16 Q. Okay. But did they do a forensic accounting of 17 her, or they didn't even do that? 18 A. No. It's only my business. 19 Q. So did you get anything in return? She got to 20 live in the house. Did you get anything in return? 21 A. No. I got to pay the house payment. 22 Q. And that was all pursuant to the court order? 23 A. It was part of the support, yes. 24 Q. Did you agree to not live in the house? 25 A. No. That's not how it works out here in</p>	<p>1 from deadbeat clients. So, yes, I'm owed a lot of money. 2 Q. Okay. 3 A. Will I ever collect it? No. My biggest unpaid 4 receivable is from Charles Castro. 5 Q. Okay. Do you hold any other promissory notes? 6 A. No. I'm not aware that I hold any. 7 Q. Other than the Visa and Merrill Lynch credit 8 cards you mentioned, do you have any other -- or do you 9 still own those credit cards, the Visa and Merrill Lynch 10 that are listed in JB6, Item No. 23? 11 A. Yes. Yes, I do. 12 Q. And other than those, do you own any other 13 credit cards? 14 A. Well, I have a gas credit card, Chevron. 15 Q. Does your law firm have any credit cards? 16 A. No. The Chevron card might be under the Law 17 Offices of Jeffrey S. Benice. I've had it for a very 18 long time. 19 Q. Do you have the ability to use credit cards in 20 anyone else's name? 21 A. No. 22 Q. Turning to your income, do you have prepared tax 23 returns for the last three years? 24 A. I don't know. I think the last filed return is 25 '06. I think there's '06, '05, and '04.</p>
Page 71	Page 73
<p>1 California. 2 Q. I'm sorry? 3 A. That's not how it works out here in California. 4 It's real simple. If you're a man in California, there 5 are two and a half strikes against you, assuming it's a 6 three-strike gig. And the male does not get to stay in 7 the house, and the male does not get to keep the house. 8 So that's what happened. It doesn't matter whether the 9 male is paying for the house or not, as I'm Exhibit A to 10 that, since I was paying for the house for some period of 11 time although I was not living there. 12 Q. Back to your firm. Is there anybody that owes 13 your firm any money at this time? 14 A. You mean on billed legal fees? 15 Q. Right. 16 A. I'd have to look. I think there are. 17 Q. Do you know approximately how much? 18 A. There might be 20 grand of unpaid fees right 19 now. 20 Q. Does anyone owe the firm any money for anything 21 else? 22 A. No. 23 Q. Does anyone owe you personally any money? 24 A. No. Let me put it this way: I have about 25 \$800,000 over the last three years of unpaid legal fees</p>	<p>1 Q. '06, '05, and '04? 2 A. Correct. I'd have to ask my accountant. Those 3 are all under audit. They're all being revised based on 4 the audit and on positions I've taken. 5 Q. Okay. But you didn't provide me those, so could 6 you provide me those 2005 and 2006? 7 A. Yes. 8 Q. Okay. And are those for just you or both you 9 and your law firm? 10 A. Well, the individual tax return is for me. I 11 have corporate tax returns, I think, for the same time 12 period. 13 Q. Okay. Could you provide those as well? 14 A. Yes. 15 Q. And you said you have an accountant. Does he 16 prepare those? 17 A. Yes. 18 Q. On JB6, Item No. 20, you state that -- you list 19 the taxes there from 2004 to 2007, as you did from 1994 20 to 1999. 21 A. Correct. 22 Q. Are those -- can you explain what that means, 23 why it's being disputed? 24 A. Well, it's because there's large credits I was 25 never given or that I've never seen documentation of --</p>

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<p>1 that's part of what this lawsuit is about -- by a large 2 creditor, over \$250,000. 3 The IRS, back in '94 or '95, improperly 4 liquidated a retirement account to pay taxes, and that 5 account had about 250,000, if I remember. I've never 6 seen a credit for that. They then also tacked on a 7 penalty for having taken the money out of a retirement 8 account; and since then, they've been accruing allegedly 9 unpaid taxes, penalties, and interest on those amounts. 10 So that's why I say it's disputed. 11 Q. Okay. And that's all part of the lawsuit that's 12 going on now? 13 A. Correct. 14 Q. Is that all part of the lawsuit that's going on 15 now? 16 A. Yes. That's my position. Yes. 17 Q. Since 2004 through -- let's see. On there you 18 list 2005, 2006, 2007. It says "estimate." What is the 19 estimate? 20 A. Just that. I don't know what it is. Because of 21 all the -- because of the problems and issues that I'm 22 dealing with the IRS. The failure -- my position is they 23 failed to give me proper credits and they've also failed 24 to recognize -- I think it was '03 or '04, there was a 25 tax return filed that my accountant made a mistake on in</p>	<p>1 always ended up, unless there's a significant problem, 2 which will be in the range of 350 to 450 of annual income 3 when the dust settles. 4 Q. Are you an officer or director of any other 5 business besides your law firm? 6 A. No. 7 Q. On Item No. 15 in JB4, you mention you own 8 50 percent of B&W. 9 A. Correct. I said it's a partnership interest. 10 Q. Okay. What is the nature of the company? 11 A. It was attempting to develop a piece of real 12 estate, and the real estate didn't -- it went into 13 foreclosure. I think that's identified on there. And 14 it's still in foreclosure. 15 Q. Is that the promissory note you had mentioned 16 earlier that you were co-signing? Is that part -- 17 A. Correct. 18 Q. -- of that B&W? 19 A. Yes. 20 Q. Are there shares, or is that -- 21 A. No. 22 Q. Did you put any assets into forming that 23 partnership? 24 A. No. 25 Q. Does the company have any assets?</p>
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<p>1 terms of gross income. We then filed an amended tax 2 return with the correct amount of taxes that was fully 3 paid, and the IRS rejected it and applied the taxes 4 somewhere else. So it's just kind of an ongoing 5 accounting mess. These are just estimates of what I'm 6 understanding I'm being told I owe, not taking into 7 consideration what my positions may be. An estimate is 8 what the estimating taxes are that are owed. I don't 9 know precisely as I sit here today. 10 Q. So have you -- 11 A. I know what their liens -- 12 Q. -- or you're not paying those listed here? 13 A. Excuse me? 14 Q. Have you paid those amounts that you have listed 15 here 2005, 2006, 2007? 16 A. No. Those are all totals owing, according to 17 the IRS, that I have disputes about. 18 Q. Okay. So those are the total that the IRS said 19 you owe but you have not yet paid. 20 A. Correct. And those are estimates, and I'm sure 21 they're much more a year and a half later. 22 Q. Okay. I understand. Can you estimate what your 23 monthly income so far this year is? 24 A. No, because I don't know what my income is going 25 to be. I'm assuming that I will end up the same way I've</p>	<p>1 A. No. 2 Q. I understand it doesn't have any real property. 3 Does it own any personal property? 4 A. No. So it's clear, it's a partnership whose 5 purpose was to develop a piece of property in Huntington 6 Beach, a residential piece of property, to build two 7 houses on that property. The underlying property is 8 owned by other parties. B&W, as part of trying to get a 9 transaction completed some years ago, three years ago, 10 went on title to that property. 11 But there's a dispute concerning ownership. 12 There was litigation that's not resolved, and the 13 property is in foreclosure. But just so it's clear, the 14 purpose of the partnership was to develop and sell two 15 spec houses in Huntington Beach, California. 16 Q. Okay. So you're saying that B&W actually owned 17 it but that's the property that's now in foreclosure. 18 A. Correct. B&W is on title. The underlying 19 mortgage -- mortgages; there were two -- were owned by 20 prior owners who still were asserting claims to the 21 property. 22 Q. Did B&W pay any money down on those mortgages? 23 A. No. 24 Q. Have you put any money at all into the 25 partnership?</p>

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<p>1 A. No.</p> <p>2 Q. In the past three years, have you been an</p> <p>3 officer or director of any another business?</p> <p>4 A. No.</p> <p>5 Q. Or have an ownership interest in any other</p> <p>6 business or partnership?</p> <p>7 A. No.</p> <p>8 Q. On JB4, Item No. 30 --</p> <p>9 A. I'm just turning to that page. Okay.</p> <p>10 Q. I know we talked about that loan. You mentioned</p> <p>11 that there was property transferred. Is that the H2? Is</p> <p>12 that the Hummer?</p> <p>13 A. Correct.</p> <p>14 Q. And the 2001 Ducati?</p> <p>15 A. Correct.</p> <p>16 Q. And that was security for the loan?</p> <p>17 A. Correct.</p> <p>18 Q. Do you still have those two vehicles, the Hummer</p> <p>19 and the Ducati?</p> <p>20 A. Yes.</p> <p>21 Q. But you have possession of those?</p> <p>22 A. But he has the titles.</p> <p>23 Q. But he has the titles. Is that the loan that</p> <p>24 you owe --</p> <p>25 A. \$98,000.</p>	<p>1 Q. And that's what you're going to provide a copy</p> <p>2 for me?</p> <p>3 A. Correct.</p> <p>4 Q. You mentioned that the IRS has a blanket lien on</p> <p>5 you.</p> <p>6 A. Correct.</p> <p>7 Q. By that, can you explain what you mean?</p> <p>8 A. I have a federal tax lien.</p> <p>9 Q. When you say "blanket lien," over --</p> <p>10 A. Well, they claim they have a lien on everything,</p> <p>11 like you're enslaved. That's as I understand it.</p> <p>12 Q. Have they attached any of your property?</p> <p>13 A. From time to time.</p> <p>14 Q. Have they -- what do you mean, from time to</p> <p>15 time? What have they attached?</p> <p>16 A. About a year ago, they took money out of my</p> <p>17 operating account that was earmarked for taxes and</p> <p>18 applied it to something else, other taxes allegedly owed.</p> <p>19 So they caused me not to be able to make my tax payments</p> <p>20 on my personal income tax.</p> <p>21 Q. How much money did they take out?</p> <p>22 A. I don't remember exactly. I think it was</p> <p>23 40 grand.</p> <p>24 Q. Out of your business checking?</p> <p>25 A. Correct.</p>
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<p>1 Q. Have there been any other assets that were</p> <p>2 transferred to Stacy?</p> <p>3 A. No.</p> <p>4 Q. Any assets transferred to your daughter?</p> <p>5 A. No. Well, other than my payments of cash into</p> <p>6 her college account.</p> <p>7 Q. Okay. And you're not represented by an attorney</p> <p>8 in this matter; is that correct?</p> <p>9 A. Correct.</p> <p>10 Q. Are you represented by an attorney in the</p> <p>11 divorce matter?</p> <p>12 A. No.</p> <p>13 Q. In any of the other proceedings against you, are</p> <p>14 you represented by an attorney?</p> <p>15 A. No.</p> <p>16 Q. On JB6, back to Item No. 21, on the support</p> <p>17 arrearages --</p> <p>18 A. Correct.</p> <p>19 Q. -- you state that you dispute any arrearages</p> <p>20 until the Duckworth analysis is complete.</p> <p>21 A. Correct.</p> <p>22 Q. What is the Duckworth analysis?</p> <p>23 A. That was the forensic analysis.</p> <p>24 Q. So that's what that is.</p> <p>25 A. Correct.</p>	<p>1 Q. Have they attached any other property?</p> <p>2 A. The Remington house.</p> <p>3 Q. Have they garnished any wages? Have they taken</p> <p>4 out any other money from your account?</p> <p>5 A. No.</p> <p>6 Q. Are you trying to get that lien lifted? Is that</p> <p>7 part of the --</p> <p>8 A. No. I mean, that would be part of the ultimate</p> <p>9 resolution of that tax case, yes.</p> <p>10 Q. Back on that \$100,000 loan. Is there a written</p> <p>11 agreement on that loan?</p> <p>12 A. There's a UCC-1 filing.</p> <p>13 Q. Okay. Would you provide a copy of that for me</p> <p>14 as well, please?</p> <p>15 A. Yes.</p> <p>16 Q. According to the court papers from the Network</p> <p>17 Services Depot case, Charles and Elizabeth Castro gave</p> <p>18 you about \$375,000 in January of 2005.</p> <p>19 Does that sound right?</p> <p>20 A. I think so, yes.</p> <p>21 Q. And then the court told you on March 24th of</p> <p>22 2006 that if it's ultimately found that the transfer of</p> <p>23 funds to you, that money should be set aside; that the</p> <p>24 FTC could move to the extent to have any depleted funds</p> <p>25 restored; and the court said that presumably you factored</p>

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<p>1 in your fee arrangements the risk of any such result. 2 Do you recall that? 3 A. I recall some of that language. Not all of it. 4 Q. Did you factor into your fee arrangements any 5 such risk? 6 A. No. Why would I? There was no risk. The 7 court's decision is wrong, and it was fees properly paid 8 before the FTC even filed an action. Nor did 9 Mr. Castro's funds come from any of the alleged Network 10 Services operations. So I didn't factor anything in, 11 except that it was legitimate, noninvolved funds as both 12 represented to me by the Castros and as is documented to 13 me by the Castros. I don't know what I would have 14 factored in. Like I said today, I think he owes me about 15 over a half a million dollars. 16 Q. At the time Mr. Castro provided those funds to 17 you, you hadn't performed any legal services yet at that 18 point. 19 A. No. That's not true. 20 Q. What had you performed at that time? 21 A. I'd been consulting with him before he paid the 22 retainer funds. 23 Q. Did you bill him for that? 24 A. I don't know. I don't know when the actual 25 billing started. I don't have it in front of me.</p>	<p>1 that that's actually something that someone says I have a 2 stock certificate. I haven't seen it. I've communicated 3 with the company, or my office administrator has. 4 Q. Okay. And if you do find out any of that 5 information, will you provide that as well, please? 6 A. Yes. 7 Q. Have you ever been arrested or convicted of a 8 crime? 9 A. No. Well, strike that. I think, when I was 18 10 or 19, I was arrested for driving on the wrong side of 11 the street. Late at night I used to throw the LA Times 12 when I was in college. I'm not certain whatever 13 happened. I mean, I don't think it shows up, but I know 14 that I was arrested and spent the night in Fullerton 15 jail. But other than that, no. 16 MS. SCHNEIDER: Okay. Let's take a two-minute 17 break, and I think we'll be able to finish up. 18 (Brief recess was taken.) 19 MS. SCHNEIDER: Back on the record. 20 Q. Just two quick things to clarify. On Item 21 No. 20 on JB4, on page 9 -- 22 A. Just a minute. Item 20? 23 Q. Right. Under the property. 24 A. Yes. 25 Q. After "jewelry," what's that word? Is that</p>
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<p>1 Q. And are there any other assets that you have 2 that haven't been mentioned in any of these documents? 3 A. My brain, since that's where all the money 4 emanates. 5 Q. Anything else? 6 A. But other than that, no. 7 Q. Okay. 8 A. You know what? There is. Recently, in the past 9 two months, I got a call out of left field from an 10 alleged shareholder in some company down in San Diego 11 that's in the -- something to do with the environment, 12 green environment or whatever. My name appeared on a 13 shareholder list, and there was a proxy fight. I 14 allegedly had \$50,000 of stock in this company. 15 I have no memory of ever having stock in the 16 company, nor did somebody give me a stock certificate for 17 fees. But, you know, maybe ten years ago somebody gave 18 me something and I just don't remember. Because I did 19 used to represent or work with these penny stock 20 companies and these shells, and there might have been a 21 stock certificate. 22 Long story short, I've had my office 23 administrator trying to track down is there really a 24 stock certificate in this company. I don't remember the 25 name of the company. But I just want to make very clear</p>	<p>1 "back"? 2 A. Books. 3 Q. Oh, books. 4 A. I have books. 5 Q. What type of books? 6 A. Best sellers. 7 Q. I'm sorry? 8 A. Best sellers. 9 Q. Okay. Are there any, you know, vintage books 10 that have some type of value? 11 A. Not that I'm aware of. 12 Q. On JB6, where you mentioned, the first page of 13 it, collectibles from the World Series -- 14 A. Correct. I'm calling them collectibles. I went 15 to the Angels-Giants World Series in '01 or '02. I don't 16 remember what year it was. I think I have a hat that I 17 bought, and a baseball. You know, World Series 18 paraphernalia. 19 Q. Approximately what are those worth? 20 A. I have no idea. I may have paid \$100 for them. 21 Q. Are those located with you at 10 Mission? 22 A. No. 23 Q. Where are they? 24 A. 38 Remington. 25 Q. Okay. Are there any other answers you wish to</p>

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1 change or clarify before we end today?
 2 A. No.
 3 MS. SCHNEIDER: Okay. At this point I'll keep
 4 the deposition open, Mr. Benice. I guess you have a
 5 bunch of documents you'll be sending to me. I'll send
 6 you a quick e-mail to remind you. I think that will be
 7 it for today.
 8 THE WITNESS: Okay.
 9 MS. SCHNEIDER: All right. Thank you very much.
 10 THE WITNESS: Thanks.
 11 THE REPORTER: Does he need to read and review
 12 or sign anything?
 13 MS. SCHNEIDER: Yes.
 14 THE REPORTER: So do you want me to send the
 15 original to him to send back to you and then the copy
 16 sent to you?
 17 MS. SCHNEIDER: Yes.
 18 THE REPORTER: Okay.
 19 MS. SCHNEIDER: Thank you very much, Valerie.
 20 (Whereupon the deposition was adjourned at
 21 12:51 p.m.)
 22
 23
 24
 25

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1 CERTIFICATE OF DEPONENT
 2
 3 I hereby certify that I have read and examined the
 4 foregoing transcript, and the same is a true and
 5 accurate record of the testimony given by me.
 6
 7 Any additions or corrections that I feel are
 8 necessary, I will attach on a separate sheet of
 9 paper to the original transcript.
 10
 11 _____
 12 Signature of Deponent
 13
 14 I hereby certify that the individual representing
 15 himself/herself to be the above-named individual,
 16 appeared before me this ____ day of _____,
 17 2009, and executed the above certificate in my
 18 presence.
 19
 20 _____
 21 NOTARY PUBLIC IN AND FOR
 22
 23 _____
 24 County Name
 25 MY COMMISSION EXPIRES:

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1 CERTIFICATE
 2 STATE OF CALIFORNIA]
 3] ss.
 4 COUNTY OF LOS ANGELES]
 5 I, VALERIE L. BOYCE, CSR,
 6 License No. 11626, State of California, certify
 7 that the foregoing deposition was taken before
 8 me at the time and place herein set forth, at
 9 which time the witness was put under oath by me;
 10 That the testimony of the witness,
 11 and all objections made at the time of the
 12 examination, were stenographically recorded by
 13 me and were thereafter transcribed by the use of
 14 computer-aided transcription;
 15 That the foregoing deposition, as
 16 printed, is a true record of the testimony of
 17 the witness and of all objections made at the
 18 time of the examination.
 19 Witness my hand this ____ day of
 20 _____, 2009.
 21
 22 _____
 23 VALERIE L. BOYCE, CSR
 24 License No. 11626
 25

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JB 1

AO 88A (Rev. 01/09) Subpoena to Testify at a Deposition or to Produce Documents in a Civil Action

UNITED STATES DISTRICT COURT

for the
Central District of California

Federal Trade Commission
Plaintiff
v.
Network Services Depot, Inc. et al.
Defendant
Civil Action No. CV-S-05-0440-LDG-LRL
(If the action is pending in another district, state where:
District of Nevada

SUBPOENA TO TESTIFY AT A DEPOSITION
OR TO PRODUCE DOCUMENTS IN A CIVIL ACTION

To: Jeffrey S. Benice, a Professional Law Corporation
Central Tower 650 Town Center Drive, 13th Floor, Suite 1300 Costa Mesa, CA 92626

Testimony: YOU ARE COMMANDED to appear at the time, date, and place set forth below to testify at a deposition to be taken in this civil action. If you are an organization that is not a party in this case, you must designate one or more officers, directors, or managing agents, or designate other persons who consent to testify on your behalf about the following matters, or those set forth in an attachment:

Table with 2 columns: Place and Date and Time. Place: Federal Trade Commission, 10877 Wilshire Boulevard, Suite 700, Los Angeles, CA 90024. Date and Time: 06/09/2009 9:00 am

The deposition will be recorded by this method: court reporter

Production: You, or your representatives, must also bring with you to the deposition the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 05/28/2009

CLERK OF COURT

OR

Handwritten signature of Laura Schneider

Signature of Clerk or Deputy Clerk

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Federal Trade Commission, who issues or requests this subpoena, are:

Laura Schneider
Federal Trade Commission 601 New Jersey Avenue Washington, DC 20580
(202) 326-2604 lschneider@ftc.gov

JB 2

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

CV-S-05-0440-LDG-LRL

NETWORK SERVICES DEPOT, INC.;
NETWORK MARKETING, LLC, dba
Network Services Marketing;
NETWORK SERVICES DISTRIBUTION,
INC.;
SUNBELT MARKETING, INC.;
CHARLES V. CASTRO;
ELIZABETH L. CASTRO; and
GREGORY HIGH;

Defendants; and

PHYLLIS WATSON,

Relief Defendant.

**FINAL JUDGMENT
AND ORDER FOR PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF**

WHEREAS, Plaintiff Federal Trade Commission (“FTC” or “Commission”) commenced this action on April 5, 2005, by filing a complaint for a permanent injunction and other equitable relief in this case pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b (Dkt. #1).

WHEREAS, the Complaint alleges that Defendants, in connection with the marketing and sale of public access Internet terminals, have violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FTC’s Trade Regulation Rule titled “Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures,” formerly codified as 16 C.F.R. Part 436 (2005) (“2005 Franchise Rule”), which rule has been replaced by two separate rules governing franchises and business opportunities as set forth in the Definitions section below.

1 WHEREAS, on April 6, 2005, the Court issued a Temporary Restraining Order in this
2 case (Dkt. #13), which, among other provisions, froze the assets of Defendants and Relief
3 Defendant. On April 14, 2005, the Court granted a Stipulated Preliminary Injunction in this case
4 (Dkt. #35), which, among other provisions, continued the freeze on those assets.

5 WHEREAS, the FTC filed a motion (Dkt. #51, Opposition - Dkt. #56, Reply -
6 Dkt. #62) for an order freezing certain funds transferred by Defendants to their attorneys,
7 arguing among other things, that those funds belong to consumer victims under a constructive
8 trust theory.

9 WHEREAS, on March 24, 2006, the Court entered an order (Dkt. #142), which stated,
10 among other things, that: “[i]f it is ultimately found the transfer of funds (or any portion thereof)
11 to defense counsel should be set aside, or made subject to consumer redress, the FTC may move
12 to that extent to have any depleted funds restored. Defense counsel, presumably, has factored
13 into its fee arrangements the risks of any such result.”

14 WHEREAS, the FTC moved for summary judgment against Defendants for violations of
15 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the 2005 Franchise Rule (Dkt. #78,
16 Response - Dkt. #79, Reply - Dkt. #127).

17 WHEREAS, the FTC’s motion for summary judgment requested that the Court, among
18 other things: (1) find that Defendants Network Services Depot, Inc.; Network Marketing, LLC;
19 Network Services Distribution, Inc.; Sunbelt Marketing, Inc.; Charles V. Castro; Elizabeth
20 Castro, and Gregory High had violated Section 5(a) of the FTC Act and the 2005 Franchise
21 Rule; (2) order injunctive relief and restitution for injured consumers pursuant to § 13(b) and
22 § 19 of the FTC Act, 15 U.S.C. § 53(b) and § 57b; (3) order Defendants Network Services
23 Depot, Inc.; Network Marketing, LLC; Network Services Distribution, Inc.; Sunbelt Marketing,
24 Inc.; Charles V. Castro; and Gregory High to pay restitution to injured consumers; (4) order that
25 the funds in the Castro Children’s Trust (controlled by Relief Defendant Phyllis Watson) be used
26 to pay consumer restitution; and (5) order that certain monies transferred to Defendants’
27 attorneys also be used for consumer restitution.

1 WHEREAS, in support of its motion for summary judgment, the FTC demonstrated that,
2 between mid 2001 and early 2004, consumers paid an aggregate of \$18,867,528 to Defendant
3 Network Services Depot.

4 WHEREAS, on September 29, 2006, the Court entered an order (Dkt. #143), which
5 granted the FTC's motion for summary judgment, with one exception – the Court sought
6 additional briefing on the issue of monies transferred to Defendants' attorneys.

7 WHEREAS, on September 17, 2007, the Court entered an order (Dkt. #175), which
8 found (1) that a portion of monies transferred to Defendants' attorneys are recoverable under the
9 theory of constructive trust; and (2) that the FTC established by clear and convincing evidence
10 (a) that the fee funds derive from corporate defendants' proceeds, (b) that the acquisition of the
11 funds was wrongful, and (c) that the FTC is entitled to the proceeds for consumer redress; but,
12 (3) that, as an equitable matter, the Court would permit payment of defense counsel's reasonable
13 and documented attorneys fees on matters directly related to this specific litigation up to March
14 24, 2006.

15 WHEREAS, on January 8, 2009, the Court entered an order (Dkt. #228), which: (1) states
16 that it would grant Defendants' attorney, the law firm of Jeffrey S. Benice, reasonable fees for
17 documented services directly related to this case between January 1, 2005, and April 1, 2006, at
18 the rate of \$300 for Mr. Benice and at the rate of one-third what Mr. Benice originally requested
19 for other professional services provided by his firm, as well as costs through the period as
20 requested; and (2) ordered Benice to submit to a revised motion for fees.

21 WHEREAS, on February 4, 2009, Mr. Benice filed a declaration (Dkt. #229) seeking
22 \$194,382 in fees and costs.

23 WHEREAS, the FTC and Mr. Benice entered a stipulation on February 25, 2009 (Dkt.
24 #233), stating the amount of fees and costs to which Mr. Benice is entitled pursuant to the
25 January 7, 2009, order is \$136,700.

26 WHEREAS, on February 13, 2009, the Court entered an order (Dkt. #232), which
27 modified the Stipulated Preliminary Injunction in this case so that Washington Mutual Bank may

1 enforce its remedies against real property owned by Defendant Gregory High, located at 90 Echo
2 Run, Irvine, CA. That order stated that, “if [surplus funds resulting from Washington Mutual’s
3 foreclosure proceedings] are realized after a final order has been entered in this matter, such
4 surplus funds be transferred to the FTC pursuant to the terms of the final order.”

5 WHEREAS, on February 27, 2009, the Federal Trade Commission filed a motion titled,
6 *Motion Pursuant to the Court’s January 7, 2009, Order for Entry of Final Judgment and Order.*

7 **THEREFORE, it is hereby ORDER, ADJUDGED, and DECREED as follows:**

8 **FINDINGS**

- 9 1. This Court has jurisdiction over the subject matter of this case and jurisdiction over all
10 parties.
- 11 2. Venue in this district is proper under 15 U.S.C. § 53(b) and 28 U.S.C. § 1391(b) and (c).
- 12 3. The activities of Defendants are in or affecting commerce, as defined in the FTC Act, 15
13 U.S.C. § 44.
- 14 4. The Complaint states a claim upon which relief can be granted against Defendants and
15 Relief Defendant under Sections 5(a), 13(b), and 19 of the Federal Trade Commission
16 Act (“FTC Act”), 15 U.S.C. §§ 45(a), 53(b), and 57b, and under the 2005 Franchise Rule,
17 16 C.F.R. Part 436 (2005).
- 18 5. This Order incorporates the findings and conclusions set forth in the September 29, 2006,
19 order (Dkt. #143) entered by this Court in this case.
- 20 6. Having reviewed the FTC’s Motion for Summary Judgment, the Court finds that between
21 mid 2001 and early 2004, consumers paid an aggregate of \$18,867,528 to Defendant
22 Network Services Depot.
- 23 7. This Order incorporates the findings and conclusions set forth in the March 24, 2006,
24 order (Dkt. #142), the September 17, 2007, order (Dkt. #175), the January 7, 2009, order
25 (Dkt. #228) (collectively, “Attorney Fees Orders”) entered by this Court in this case as to
26 Defendants and Jeffrey S. Benice.
- 27 8. Having reviewed the February 25, 2009, stipulation between the FTC and Mr. Benice,

1 the Court finds that the law firm of Jeffrey S. Benice is entitled to \$136,700 for
2 reasonable attorney fees and costs directly related to this case between January 1, 2005,
3 and April 1, 2006. Therefore, pursuant to the Attorney Fees Orders, the FTC is entitled,
4 for consumer restitution, to the retainer funds paid to the law firm of Jeffrey S. Benice in
5 excess of \$136,700, which amounts to \$238,300.

6 9. The paragraphs of this Order shall be read as the necessary requirements for compliance
7 and not as alternatives for compliance, and no paragraph serves to modify another
8 paragraph unless expressly so stated.

9 10. Each party shall bear its own costs and attorneys' fees.

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

11 DEFINITIONS

12 For purposes of this Order, the following definitions shall apply:

13 A. "Assets" means any legal or equitable interest in, right to, or claim to, any real
14 and personal property, including, but not limited to, chattel, goods, instruments, equipment,
15 fixtures, general intangibles, inventory, checks, notes, leaseholds, effects, contracts, mail or other
16 deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables,
17 funds, and cash, wherever located, whether in the United States or abroad.

18 B. "Business Opportunity Rule" means FTC Trade Regulation Rule titled
19 "Disclosure Requirements and Prohibitions Concerning Business Opportunities," codified at 16
20 C.F.R. Part 437, or as it may be amended.

21 C. "Business Venture" means any written or oral business arrangement, however
22 denominated, that is covered by the Franchise Rule or the Business Opportunity Rule, or that
23 consists of the payment of any consideration in exchange for:

24 a. the right or means to offer, sell, or distribute goods or services (regardless
25 of whether identified by a trademark, service mark, trade name,
26 advertising, or other commercial symbol); and

27 b. more than nominal assistance to any person or entity in connection with or

1 incident to the establishment, maintenance, or operation of a new business
2 or the entry by an existing business into a new line or type of business.

3 D. "Corporate Defendants" means Network Services Depot, Inc.; Network
4 Marketing, LLC; Network Services Distribution, Inc.; Sunbelt Marketing, Inc.; and their
5 successors and assigns.

6 E. "Defendants" means all of the Individual Defendants and the Corporate
7 Defendants, individually, collectively, or in any combination.

8 F. "Document" is synonymous in meaning and equal in scope to the usage of the
9 term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts,
10 photographs, audio and video recordings, computer records, and other data compilations from
11 which the information can be obtained and translated, if necessary, through detection devices
12 into reasonably usable form. A draft or non-identical copy is a separate document within the
13 meaning of the term.

14 G. "Franchise Rule" means the FTC Trade Regulation Rule titled "Disclosure
15 Requirements and Prohibitions Concerning Franchising," codified at 16 C.F.R. Part 436, or as it
16 may be amended.

17 H. "Individual Defendants" means Charles V. Castro, Elizabeth L. Castro, and
18 Gregory High.

19 I. "Person" means a natural person, organization or other legal entity, including a
20 corporation, partnership, proprietorship, association, or cooperative, or any other group, or
21 combination acting as an entity.

22 J. "Relief Defendant" means Phyllis Watson.

23 **ORDER**

24 **I.**

25 **BAN ON SALE OF FRANCHISES AND BUSINESS VENTURES**

26 **IT IS THEREFORE ORDERED** that the Corporate Defendants and Defendant Charles
27 V. Castro, directly or through any corporation, partnership, subsidiary, division, trade name,

1 device, or other entity, are hereby permanently restrained and enjoined from:

- 2 A. Advertising, marketing, promoting, offering for sale, selling, or assisting any
3 other person in the sale of any Business Venture; or
- 4 B. Receiving any remuneration or other consideration of any kind whatsoever from
5 any person engaged in or assisting in advertising, marketing, promoting, offering
6 for sale, or selling any Business Venture;
- 7 C. Holding any ownership interest, share, or stock in, any person engaged in
8 advertising, marketing, promoting, offering for sale, or selling any Business
9 Venture; or
- 10 D. Serving as an employee, officer, director, trustee, general manager of, or
11 consultant or advisor to, any person engaged in advertising, marketing,
12 promoting, offering for sale, or selling any Business Venture.

13 Nothing in this Order shall be read as an exception to this Section.

14 **II.**

15 **PROHIBITED REPRESENTATIONS**

16 **IT IS FURTHER ORDERED** that, in connection with the advertising, offering for sale,
17 licensing, contracting, sale or other promotion, in or affecting commerce, of any goods or
18 services, Defendants, directly or through any corporation, partnership, subsidiary, division, trade
19 name, device, or other entity, and their officers, agents, servants, employees, and attorneys, and
20 all persons and entities in active concert or participation with them who receive actual notice of
21 this Order, by personal service or otherwise, are hereby enjoined from misrepresenting,
22 expressly or by implication, any material fact, including, but not limited to:

- 23 A. The existence, performance, efficacy, nature, or central characteristic of such
24 good or service;
- 25 B. The income, profit, or sales volume that a purchaser of such good or service is
26 likely to achieve;
- 27 C. The source of any income or profit sent to a purchaser of such good or service; or

1 D. The availability or existence of locations or profitable locations for such good or
2 service.

3 **III.**

4 **MEANS AND INSTRUMENTALITIES**

5 **IT IS FURTHER ORDERED** that, in connection with the advertising, offering for sale,
6 licensing, contracting, sale or other promotion, in or affecting commerce, of any goods or
7 services, Defendants, directly or through any corporation, partnership, subsidiary, division, trade
8 name, device, or other entity, and their officers, agents, servants, employees, and attorneys, and
9 all persons and entities in active concert or participation with them who receive actual notice of
10 this Order, by personal service or otherwise, are hereby enjoined from providing to others the
11 means or instrumentalities with which to make misrepresentations, expressly or by implication,
12 of any material fact, including, but not limited to, providing others with materials that contain
13 false representations concerning:

- 14 A. The existence, performance, efficacy, nature, or central characteristic of such
15 good or service;
- 16 B. The income, profit, or sales volume that a purchaser of such good or service is
17 likely to achieve;
- 18 C. The source of any income or profit sent to a purchaser of such good or service; or
19 D. The availability or existence of locations or profitable locations for such good or
20 service.

21 **IV.**

22 **MONETARY RELIEF**

23 **IT IS FURTHER ORDERED** that:

- 24 A. Judgment is hereby entered jointly and severally against the Corporate
25 Defendants, Defendant Charles V. Castro, and Defendant Gregory High in the
26 amount of eighteen million, eight hundred twenty-seven thousand, five hundred
27 twenty-eight dollars (\$18,827,528), as equitable monetary relief to redress

1 consumer injury. This monetary judgment shall become immediately due and
2 payable by Defendants upon entry of this Order, and interest computed at the rate
3 prescribed under 28 U.S.C. § 1961 shall immediately begin to accrue on the
4 unpaid balance.

5 B. Within ten (10) business days of the date of service of this Order, by personal
6 service or otherwise, Relief Defendant shall pay to the FTC as equitable monetary
7 relief to redress consumer injury all funds contained in the account for which the
8 Relief Defendant is listed as the account holder, trustee, or custodian at Fullerton
9 Community Bank with account number ending in 0690, which was frozen
10 pursuant to the Stipulated Preliminary Injunction in this case, and funds that
11 Fullerton Community Bank removed from such frozen account and is holding
12 separately. That amount shall be at least two hundred seventy thousand, nine
13 hundred seventy-five dollars (\$270,975). In the event of default on the payment
14 required to be made by this Subsection, the entire unpaid judgment, together with
15 interest computed under 28 U.S.C. § 1961 -- accrued from the date of default until
16 the date of payment -- shall be immediately due and payable. *Provided, however,*
17 *that this judgment shall be deemed fully satisfied upon completion of Section V.B*
18 *of this Order.*

19 C. All payments required to be made to the Commission under this Order shall be
20 made by electronic funds transfer in accordance with directions provided by the
21 Commission.

22 D. All funds transferred pursuant to this Order shall be deposited into a fund
23 administered by the FTC, or its designated agent, to be used for equitable relief,
24 including, but not limited to, restitution and any attendant expenses for the
25 administration of any monetary fund. If the Commission determines, in its sole
26 discretion, that direct restitution for consumers is wholly or partially
27 impracticable or funds remain after restitution is completed, the Commission may

1 apply any remaining funds for any other equitable relief (including consumer
2 information remedies) that it determines to be reasonably related to Defendants'
3 practices alleged in the Complaint. Any funds not used for this equitable relief
4 shall be deposited into the U.S. Treasury as disgorgement. Defendants and Relief
5 Defendant shall have no right to challenge the FTC's choice of remedies under
6 this Section.

7 **V.**

8 **TURNOVER OF ASSETS HELD BY THIRD PARTIES**

9 **IT IS FURTHER ORDERED** that to partially satisfy the monetary judgment set forth
10 in the Section titled "Monetary Relief:"

11 A. Any law firm, financial or brokerage institution, escrow agent, title company,
12 commodity trading company, business entity, or person, that holds, controls, or
13 maintains custody of any asset or account of, on behalf of, or for the benefit of,
14 any Corporate Defendant, Defendant Charles V. Castro, or Defendant Gregory
15 High, or has held, controlled, or maintained custody of any account or asset of, on
16 behalf of, or for the benefit of, any such Defendant, shall turn over such asset or
17 all funds in such account to the Commission or its duly authorized agent (as
18 directed by Commission counsel), within ten (10) business days of receiving
19 actual notice of this Order by personal service or otherwise. Those assets or
20 accounts include, but not necessarily limited to:

- 21 1. All frozen funds held at Fullerton Community Bank, including, but not
22 limited to, funds in accounts in the name of, or controlled by, any
23 Defendant, including accounts with account numbers ending in 9150,
24 9169, 1018, 1827, 3179, 0058, 3518, 2905, 0266, and 9753;
- 25 2. All frozen funds held at Union Bank of California, including, but not
26 limited to, funds in the account in the name of, or controlled by, any
27 Defendant, with account number ending in 0230, 7484, and 7674; and

1 hundred dollars (\$238,300) (“Benice Funds”), (b) designate the Benice
2 Funds as: “Retainer Funds Subject to Consumer Restitution in *FTC v.*
3 *Network Services Depot;*” and (c) transfer the Benice Funds to a trust
4 account maintained by the law firm of Jeffrey S. Benice; and

- 5 2. Within ten (10) business days of the date of receiving actual notice of this
6 Order by personal service or otherwise, transfer the Benice Funds to the
7 Commission or its duly authorized agent (as directed by Commission
8 counsel) by electronic funds transfer, designating the Benice Funds as
9 “Retainer Funds Subject to Consumer Restitution in *FTC v. Network*
10 *Services Depot.*”

11 F. If, after entry of this Order, Washington Mutual Bank, its successors, and/or
12 assigns, realizes any excess proceeds (proceeds in excess of payment of all sums
13 that Washington Mutual Bank secured by a deed of trust) upon exercising any
14 rights it has to enforce remedies against real property owned by Defendant
15 Gregory High, located at 90 Echo Run, Irvine, CA, Washington Mutual Bank, its
16 successors, and/or assigns shall transfer such excess proceeds to the Commission
17 or its duly authorized agent (as directed by Commission counsel) within ten (10)
18 business days of realizing such proceeds.

19 G. All payments required to be made to the Commission or its agents or
20 representatives under this Section shall be used as equitable monetary relief to
21 redress consumer injury in accordance with the Section titled “Monetary Relief”
22 and shall be made by electronic funds transfer in accordance with directions
23 provided by the Commission.

24 **VI.**

25 **LIFTING OF THE ASSET FREEZE**

26 **IT IS FURTHER ORDERED** that the freeze of the assets pursuant to the Stipulated
27 Preliminary Injunction in this case shall be lifted to the extent necessary to transfer assets

1 pursuant to Section V.A-D. Once all such assets required to be transferred under such provisions
2 have been transferred, as evidenced by a letter confirming receipt of same from counsel for the
3 Commission, the freeze of the remaining assets shall be lifted permanently.

4 **VII.**

5 **FORFEITURE ACTION**

6 **IT IS FURTHER ORDERED** that, with respect to any assets seized from Bank of
7 America Accounts in the name of Bikini Vending Corporation by the Federal Bureau of
8 Investigation, including approximately one million, five hundred twenty-four thousand dollars
9 (\$1,524,000), which is or has been the subject of *U.S. v. \$1,524,438.90*, SACV 04-910-AHS-
10 MLG (C.D. Calif.):

- 11 A. Within five (5) business days of the date of entry of this Order, Defendants shall
12 release any and all claims they may have to such assets.
- 13 B. Upon entry of this Order, the Defendants shall relinquish all dominion, control,
14 and title to such assets. Defendants shall make no claim to or demand return of
15 such assets, directly or indirectly, through counsel or otherwise.
- 16 C. Such assets and their proceeds may be transferred by the Office of the United
17 States Marshal, or its designated agent, to the Federal Trade Commission, or its
18 designated agent.
- 19 D. Any such assets transferred to the Commission shall be used as equitable
20 monetary relief to redress consumer injury in accordance with the Section titled
21 "Monetary Relief" and shall partially satisfy the monetary judgment set forth in
22 that section.

23 **VIII.**

24 **CUSTOMER LISTS**

25 **IT IS FURTHER ORDERED** that Defendants, directly or through any corporation,
26 partnership, subsidiary, division, trade name, device, or other entity, and their officers, agents,
27 servants, employees, and attorneys, and all persons and entities in active concert or participation

1 with them who receive actual notice of this Order, by personal service or otherwise, are hereby
2 enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name, address,
3 telephone number, credit card number, bank account number, email address, or other identifying
4 information of any person who purchased a Business Venture from any Defendant; *provided* that
5 Defendants may disclose such identifying information to a law enforcement agency, including
6 the Federal Trade Commission, or as required by any law, regulation, or court order.

7 **IX.**

8 **COMPLIANCE MONITORING**

9 **IT IS FURTHER ORDERED** that, for the purpose of monitoring and investigating
10 compliance with any provision of this Order:

- 11 A. Within ten (10) days of receipt of written notice from a representative of the
12 Commission, Defendants and Relief Defendant each shall submit additional
13 written reports, which are true and accurate and sworn to under penalty of
14 perjury; produce documents for inspection and copying; appear for deposition;
15 and provide entry during normal business hours to any business location in such
16 Defendant's possession or direct or indirect control to inspect the business
17 operation;
- 18 B. In addition, the Commission is authorized to use all other lawful means, including
19 but not limited to:
- 20 1. obtaining discovery from any person, without further leave of court, using
21 the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, 45 and 69;
 - 22 2. posing as consumers and suppliers to Defendants, their employees, or any
23 other entity managed or controlled in whole or in part by any Defendant,
24 without the necessity of identification or prior notice; and
- 25 C. Defendants each shall permit representatives of the Commission to interview any
26 employer, consultant, independent contractor, representative, agent,
27 or employee who has agreed to such an interview, relating in any way to any

1 Corporate Defendant or any business entity that any Defendant directly or
2 indirectly controls, or has an ownership interest in, that may affect
3 compliance obligations arising under this Order, including but not limited
4 to: incorporation or other organization; a dissolution, assignment, sale,
5 merger, or other action; the creation or dissolution of a subsidiary, parent,
6 or affiliate that engages in any acts or practices subject to this Order; or a
7 change in the business name or address, at least thirty (30) days prior to
8 such change, *provided* that, with respect to any proposed change in the
9 business entity about which a Defendant learns less than thirty (30) days
10 prior to the date such action is to take place, such Defendant shall notify
11 the Commission as soon as is practicable after obtaining such knowledge.

12 B. One hundred eighty (180) days after the date of entry of this Order and annually
13 thereafter for a period of five (5) years, Defendants each shall provide a written
14 report to the FTC, which is true and accurate and sworn to under penalty of
15 perjury, setting forth in detail the manner and form in which they have complied
16 and are complying with this Order. This report shall include, but not be limited
17 to:

- 18 1. For each Individual Defendant:
 - 19 a. such Defendant's then-current residence address, mailing
20 addresses, and telephone numbers;
 - 21 b. such Defendant's then-current employment status (including self-
22 employment), including the name, addresses, and telephone
23 numbers of each business that such Defendant is affiliated with,
24 employed by, or performs services for; a detailed description of the
25 nature of the business; and a detailed description of such
26 Defendant's duties and responsibilities in connection with the
27 business or employment; and

1 c. Any other changes required to be reported under Subsection A of
2 this Section.

3 2. For all Defendants:

4 a. A copy of each acknowledgment of receipt of this Order, obtained
5 pursuant to the Section titled "Distribution of Order;" and

6 b. Any other changes required to be reported under Subsection A of
7 this Section.

8 C. Each Defendant shall notify the Commission of the filing of a bankruptcy petition
9 by such Defendant within fifteen (15) days of filing.

10 D. For the purposes of this Order, Defendants shall, unless otherwise directed by the
11 Commission's authorized representatives, send by overnight courier all reports
12 and notifications required by this Order to the Commission, to the following
13 address:

14 Associate Director for Enforcement
15 Federal Trade Commission
16 600 Pennsylvania Avenue, N.W., Room NJ-2122
Washington, D.C. 20580
RE: *FTC v. Network Services Depot, Inc., CV-S-05-0440-LDG-LRL.*

17 *Provided that, in lieu of overnight courier, Defendants may send such reports or*
18 *notifications by first-class mail, but only if Defendants contemporaneously send*
19 *an electronic version of such report or notification to the Commission at:*

20 DEBrief@ftc.gov.

21 E. For purposes of the compliance reporting and monitoring required by this Order,
22 the Commission is authorized to communicate directly with each Defendant and
23 Relief Defendant.

24 **XI.**

25 **RECORD KEEPING PROVISIONS**

26 **IT IS FURTHER ORDERED** that, for a period of eight (8) years from the date of entry
27 of this Order, Defendants, in connection with any business where any Defendant is the majority

1 of this Order, Defendants shall deliver copies of the Order as directed below:

2 A. **Corporate Defendant:** Each Corporate Defendant must deliver a copy of this
3 Order to (1) all of its principals, officers, directors, and managers; (2) all of its
4 employees, agents, and representatives who engage in conduct related to the
5 subject matter of the Order; and (3) any business entity resulting from any change
6 in structure set forth in Subsection A.2 of the Section titled "Compliance
7 Reporting." For current personnel, delivery shall be within five (5) days of
8 service of this Order upon such Defendant. For new personnel, delivery shall
9 occur prior to them assuming their responsibilities. For any business entity
10 resulting from any change in structure set forth in Subsection A.2 of the Section
11 titled "Compliance Reporting," delivery shall be at least ten (10) days prior to the
12 change in structure.

13 B. **Individual Defendant as Control Person:** For any business that an Individual
14 Defendant controls, directly or indirectly, or in which such Defendant has a
15 majority ownership interest, such Defendant must deliver a copy of this Order to
16 (1) all principals, officers, directors, and managers of that business; (2) all
17 employees, agents, and representatives of that business who engage in conduct
18 related to the subject matter of the Order; and (3) any business entity resulting
19 from any change in structure set forth in Subsection A.2 of the Section titled
20 "Compliance Reporting." For current personnel, delivery shall be within five (5)
21 days of service of this Order upon such Defendant. For new personnel, delivery
22 shall occur prior to them assuming their responsibilities. For any business entity
23 resulting from any change in structure set forth in Subsection A.2 of the Section
24 titled "Compliance Reporting," delivery shall be at least ten (10) days prior to the
25 change in structure.

26 C. **Individual Defendant as employee or non-control person:** For any business
27 where an Individual Defendant is not a controlling person of a business but

1 otherwise engages in conduct related to the subject matter of this Order, such
2 Defendant must deliver a copy of this Order to all principals and managers of
3 such business before engaging in such conduct.

4 D. Defendants must secure a signed and dated statement acknowledging receipt of
5 the Order, within thirty (30) days of delivery, from all persons receiving a copy of
6 the Order pursuant to this Section.

7 **XIII.**

8 **ACKNOWLEDGMENT OF RECEIPT OF ORDER**

9 **IT IS FURTHER ORDERED** that each Defendant and Relief Defendant, within five (5)
10 business days of receipt of this Order as entered by the Court, must submit to the Commission a
11 truthful sworn statement acknowledging receipt of this Order.

12 **XIV.**

13 **SEVERABILITY**

14 **IT IS FURTHER ORDERED** that the provisions of this Order are separate and
15 severable from one another. If any provision is stayed or determined to be invalid, the remaining
16 provisions shall remain in full force and effect.


17 **XV.**

18 **RETENTION OF JURISDICTION**

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

21
22 **IT IS SO ORDERED**, this 5 day of MAR, 2009

23
24
25 Dated: 5 MAR 2009

26 
LLOYD D. GEORGE
U.S. DISTRICT COURT JUDGE

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Respectfully submitted,

/s/ Lisa D. Rosenthal

DATED: 2/27/09

LISA D. ROSENTHAL
KERRY O'BRIEN
Federal Trade Commission
901 Market Street, Suite 570
San Francisco, CA 94103
Phone (415) 848-5100/ Fax (415) 848-5184
Email: lrosenthal@ftc.gov

JB 3a

AO 88B (Rev. 01/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises

UNITED STATES DISTRICT COURT

for the
Central District of California

Federal Trade Commission
Plaintiff
v.
Network Services Depot, Inc. et al.
Defendant
Civil Action No. CV-S-05-0440-LDG-LRL
(If the action is pending in another district, state where:
District of Nevada

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES

To: Jeffrey S. Benice
Central Tower 650 Town Center Drive, 13th Floor, Suite 1300 Costa Mesa, CA 92626

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following
documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the
material: All Information requested in attached "Financial Statement of Individual Defendant."

Place: Federal Trade Commission
10877 Wilshire Boulevard, Suiet 700
Los Angeles, CA 90024
Date and Time:
05/07/2009 5:00 pm

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or
other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party
may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:
Date and Time:

The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule
45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are
attached.

Date: 04/23/2009

CLERK OF COURT

Signature of Clerk or Deputy Clerk

OR

Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing (name of party) Federal Trade Commission
, who issues or requests this subpoena, are:

Laura Schneider
Federal Trade Commission 601 New Jersey Avenue Washington, DC 20580
(202) 326-2604 lschneider@ftc.gov

JB 36

AO 88B (Rev. 01/09) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises

UNITED STATES DISTRICT COURT

for the
Central District of California

Federal Trade Commission)	
<i>Plaintiff</i>)	
v.)	Civil Action No. CV-S-05-0440-LDG-LRL
Network Services Depot, Inc. et al.)	
<i>Defendant</i>)	(If the action is pending in another district, state where: District of Nevada

SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES

To: Jeffrey S. Benice, a Professional Law Corporation
Central Tower 650 Town Center Drive, 13th Floor, Suite 1300 Costa Mesa, CA 92626

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and permit their inspection, copying, testing, or sampling of the material: All information requested in attached "Financial Statement of Corporate Defendant."

CALENDARED

Place: Federal Trade Commission 10877 Wilshire Boulevard, Suiet 700 Los Angeles, CA 90024	Date and Time: 05/07/2009 5:00 pm
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Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
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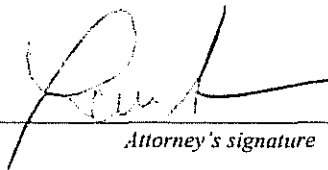
The provisions of Fed. R. Civ. P. 45(c), relating to your protection as a person subject to a subpoena, and Rule 45 (d) and (e), relating to your duty to respond to this subpoena and the potential consequences of not doing so, are attached.

Date: 04/23/2009

CLERK OF COURT

Signature of Clerk or Deputy Clerk

OR



Attorney's signature

The name, address, e-mail, and telephone number of the attorney representing *(name of party)* Federal Trade Commission, who issues or requests this subpoena, are:

Laura Schneider
Federal Trade Commission 601 New Jersey Avenue Washington, DC 20580
(202) 326-2604 Ischneider@ftc.gov

JB4

FEDERAL TRADE COMMISSION

FINANCIAL STATEMENT OF INDIVIDUAL 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. "Dependents" include your live-in companion, dependent children, or any other person, whom you or your spouse (or your children's other parent) claimed or could have claimed as a dependent for tax purposes at any time during the past five years.
3. "Assets" and "Liabilities" include ALL assets and liabilities, located within the United States or elsewhere, whether held individually or jointly.
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(s) being continued.
5. Type or print legibly.
6. Initial each page in the space provided in the lower right corner.
7. Sign and date the completed financial statement on the last page.

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. Information About You

Your Full Name JEFFREY S. BEWICK Social Security No. [REDACTED]

Place of Birth [REDACTED] Date of Birth [REDACTED] Drivers License No. [REDACTED]

Current Address 10 Mission Ridge, Ladera Ranch, CA From (Date) FEB, 09

Rent or Own? Rent Telephone No. 949-3754284 Facsimile No. ---

E-Mail Address JSB@JeffreyBewick.com Internet Home Page ---

Previous Addresses for past five years:

Address 21 Alhambra, Irvine Rent or Own? own From/Until 2007-2009

Address 21 Arroyo Viejo, Irvine, CA Rent or Own? Rent From/Until 2006-2007

Address 38 Remington, Aliso Viejo Rent or Own? own (partner) From/Until 2000-2004

Identify any other name(s) and/or social security number(s) you have used, and the time period(s) during which they were used NONE

Item 2. Information About Your Spouse or Live-In Companion N/A / Divorce (penoml)

Spouse/Companion's Name _____ Social Security No. _____

Place of Birth _____ Date of Birth _____

Identify any other name(s) and/or social security number(s) your spouse/companion has used, and the time period(s) during which they were used _____

Address (if different from yours) _____

From (Date) _____ Rent or Own? _____ Telephone No. _____

Employer's Name and Address _____

Job Title _____ Years in Present Job _____ Annual Gross Salary/Wages \$ _____

Item 3. Information About Your Previous Spouse N/A

Previous Spouse's Name & Address _____

_____ Social Security No. _____ Date of Birth _____

Item 4. Contact Information

Initials JSB

Name & Address of Nearest Living Relative or Friend Joyce Skenton
(MOTHER) Telephone No. 951-6574624

Item 5. Information About Dependents Who Live With You

*Name Isabella Benin Date of Birth [REDACTED]
 Relationship Daughter Social Security No. _____
 *Name _____ Date of Birth _____
 Relationship _____ Social Security No. _____
 *Name _____ Date of Birth _____
 Relationship _____ Social Security No. _____

Item 6. Information About Dependents Who Do Not Live With You

*Name & Address _____
 Date of Birth _____ Relationship _____ Social Security No. _____
 *Name & Address _____
 Date of Birth _____ Relationship _____ Social Security No. _____
 *Name & Address _____
 Date of Birth _____ Relationship _____ Social Security No. _____

Item 7. Employment Information

Provide the following information for this year-to-date and for each of the previous five full years, for each company of which you were a director, officer, employee, agent, contractor, participant or consultant at any time during that period. "Income" includes, but is not limited to, any salary, commissions, draws, consulting fees, loans, loan payments, dividends, royalties or other benefits for which you did not pay (e.g., health insurance premiums, automobile lease or loan payments) received by you or anyone else on your behalf.

*Company Name & Address SELF EMPLOYED / LAW FIRM / 650 TOWN CENTER DR., #1300 COSTA MESA, CA 92621
 Dates Employed: From (Month/Year) 1994 To (Month/Year) Current
 Positions Held with Beginning and Ending Dates Principal

Item 7. continued

Initials [Signature]

Average income based upon 07-08 is \$440,000 approx.

Income Received: This year-to-date: \$ unknown ; _____ : \$ _____
20____ : \$ _____ : \$ _____
_____ : \$ _____ : \$ _____

Company Name & Address Woburn Center

Dates Employed: From (Month/Year) _____ To (Month/Year) _____

Positions Held with Beginning and Ending Dates _____

Income Received: This year-to-date: \$ _____ : \$ _____
20____ : \$ _____ : \$ _____
_____ : \$ _____ : \$ _____

Company Name & Address _____

Dates Employed: From (Month/Year) _____ To (Month/Year) _____

Positions Held with Beginning and Ending Dates _____

Income Received: This year-to-date: \$ _____ : \$ _____
20____ : \$ _____ : \$ _____
_____ : \$ _____ : \$ _____

Item 8. Pending Lawsuits Filed by You or Your Spouse N/A

List all pending lawsuits that have been filed by you or your spouse in court or before an administrative agency. (List lawsuits that resulted in final judgments or settlements in Items 16 and 25).

Opposing Party's Name & Address US v Benin] Suit Asst J. Benin

Court's Name & Address USDC CALIF.

Docket No. SACV 04-0278 Relief Requested Tax Nature of Lawsuit Tax

Status Pending

Item 9. Pending Lawsuits Filed Against You or Your Spouse

List all pending lawsuits that have been filed against you or your spouse in court or before an administrative agency. (List

Initials AM

lawsuits that resulted in final judgments or settlements in Items 16 and 25). **N/A - Below AM Actions Against Benic**

Opposing Party's Name & Address Pitman v. Benic, Dom v. Benic # 30-2008-0011

Court's Name & Address OL Superior Court (Cu-RC-CR) 2729

Docket No. _____ Relief Requested Damages \$250,000 Nature of Lawsuit Unpaid Loans

Status Pitman - Settled; Dom - pending

Benic v. Benic, Citicorp Card, Comp Court, Super Court, Cu

no. 03 to 001 2162

Item 10. Safe Deposit Boxes

List all safe deposit boxes, located within the United States or elsewhere, held by you, your spouse, or any of your dependents, or held by others for the benefit of you, your spouse, or any of your dependents. *On a separate page, describe the contents of each box.*

Owner's Name	Name & Address of Depository Institution	Box No.
<u>None</u>		

Item 11. Business Interests

List all businesses for which you, your spouse, or your dependents are an officer or director.

- Business Name & Address Jeffrey Home, A PC
- Business Format (e.g., corporation) Corp. Description of Business Law
- Position(s) Held, and By Whom President
- Business Name & Address CSB Tax Center #13 del Costa Mesa, CA 92626
- Business Format (e.g., corporation) Corporation Description of Business Law Firm
- Position(s) Held, and By Whom _____
- Business Name & Address _____
- Business Format (e.g., corporation) _____ Description of Business _____
- Position(s) Held, and By Whom _____

Initials D

FINANCIAL INFORMATION: ASSETS AND LIABILITIES

REMINDER: "Assets" and "Liabilities" include ALL assets and liabilities, located within the United States or elsewhere, whether held individually or jointly.

Item 12. Cash, Bank, and Money Market Accounts

List cash and all bank and money market accounts, including but not limited to, checking accounts, savings accounts, and certificates of deposit, held by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents. The term "cash" includes currency and uncashed checks.

Cash on Hand \$ 0 Cash Held For Your Benefit \$ 0

<u>Name on Account</u>	<u>Name & Address of Financial Institution</u>	<u>Account No.</u>	<u>Current Balance</u>
<u>Jopp Jones</u>	<u>WELLS FARGO BANK - LBS Financial Irvine, CA.</u>	<u>[REDACTED]</u>	<u>\$ 1000 + APPROX AS OF 5/24/09</u>
			\$
			\$
			\$
			\$

Item 13. U.S. Government Securities

List all U.S. Government securities, including but not limited to, savings bonds, treasury bills, and treasury notes, held by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents.

<u>Name on Account</u>	<u>Type of Obligation</u>	<u>Security Amount</u>	<u>Maturity Date</u>
<u>Wich</u>		\$	
		\$	
		\$	

Item 14. Publicly Traded Securities and Loans Secured by Them

[Signature]

List all publicly traded securities, including but not limited to, stocks, stock options, registered and bearer bonds, state and municipal bonds, and mutual funds, held by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents.

NONE

► Issuer _____ Type of Security _____ No. of Units Owned _____

Name on Security _____ Current Fair Market Value \$ _____ Loan(s) Against Security \$ _____

Broker House, Address _____ Broker Account No. _____

► Issuer _____ Type of Security _____ No. of Units Owned _____

Name on Security _____ Current Fair Market Value \$ _____ Loan(s) Against Security \$ _____

Broker House, Address _____ Broker Account No. _____

Item 15.

Other Business Interests

I hold nontradable stock in ~~SEA~~ nonpublic company I received over 5 yrs. ago. I have no opinion of value; one Tech

List all other business interests, including but not limited to, non-public corporations, subchapter-S corporations, limited liability corporations ("LLCs"), general or limited partnership interests, joint ventures, sole proprietorships, and oil and mineral leases, held by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents.

► Business Format *NONE* Business' Name & Address _____

Ownership % _____

Owner (e.g., self, spouse) _____ Current Fair Market Value \$ _____

► Business Format *Partnership / P&W* Business' Name & Address *650 Tom Court Dr #1, 700
Custer Nev 89301 CO 57676* Ownership % *50*

Owner (e.g., self, spouse) _____ Current Fair Market Value \$ *Unknown*

Item 16. Monetary Judgments or Settlements Owed to You, Your Spouse, or Your Dependents

List all monetary judgments or settlements owed to you, your spouse, or your dependents.

► Opposing Party's Name & Address *NONE to my knowledge*

Court's Name & Address _____ Docket No. _____

Nature of Lawsuit _____ Date of Judgment _____ Amount \$ _____

► Opposing Party's Name & Address _____

Court's Name & Address _____ Docket No. _____

Nature of Lawsuit _____ Date of Judgment _____ Amount \$ _____

Item 17. Other Amounts Owed to You, Your Spouse, or Your Dependents

List all other amounts owed to you, your spouse, or your dependents.

Debtor's Name, Address, & Telephone No. _____

Original Amount Owed \$ _____ Current Amount Owed \$ _____ Monthly Payment \$ _____

Item 18. Life Insurance Policies

List all life insurance policies held by you, your spouse, or your dependents.

Insurance Company's Name, Address, & Telephone No. Pr. Levitor; Mike Government

Agent

Insured Self, Bruce Beneficiary J. Government Face Value \$ 250,000

Policy No. _____ Loans Against Policy \$ _____ Surrender Value \$ 0

Insurance Company's Name, Address, & Telephone No. _____

Insured _____ Beneficiary _____ Face Value \$ _____

Policy No. _____ Loans Against Policy \$ _____ Surrender Value \$ _____

Item 19. Deferred Income Arrangements Niche

List all deferred income arrangements, including but not limited to, deferred annuities, pensions plans, profit-sharing plans, 401(k) plans, IRAs, Keoghs, and other retirement accounts, held by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents.

Name on Account _____ Type of Plan _____ Date Established _____

Trustee or Administrator's Name, Address & Telephone No. _____

Account No. _____ Surrender Value \$ _____

Name on Account _____ Type of Plan _____ Date Established _____

Trustee or Administrator's Name, Address & Telephone No. _____

Account No. _____ Surrender Value \$ _____

Item 20. Personal Property

List all personal property, by category, whether held for personal use or for investment, including but not limited to,

furniture and household goods of value, computer equipment, electronics, coins, stamps, artwork, gemstones, jewelry, bullion, other collectibles, copyrights, patents, and other intellectual property, held by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents.

Property Category (e.g., artwork, jewelry)	Name of Owner	Property Location	Acquisition Cost	Current Value
Miscellaneous furniture clothing; jewelry; books -	J Benita	10 Mission Ridge LA Brea Apartment, CA	\$ 20,000 + -25,000	\$ 70,000
(See Attachment in Benita's Divorce)			\$	\$
			\$	\$
			\$	\$

Item 21. Cars, Trucks, Motorcycles, Boats, Airplanes, and Other Vehicles

List all cars, trucks, motorcycles, boats, airplanes, and other vehicles owned or operated by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents.

• Vehicle Type 2003 Make BMW Model 745 Year 2003

Registered Owner's Name Jerry Benita Registration State & No. _____

Address of Vehicle's Location 10 Mission Ridge LA Brea Apartment CA

Purchase Price \$ 42,000 ^{approx.} Current Value \$ 15,000 ^{approx.} Account/Loan No. _____

Lender's Name and Address Sport Leasing

Original Loan Amount \$ 42,000 Current Loan Balance \$ 30,000 Monthly Payment \$ 750

• Vehicle Type 2004 Make Porsche Model Turbo Year 2004

Registered Owner's Name Jerry Benita Registration State & No. _____

Address of Vehicle's Location 10 Mission Ridge, LA Brea Apartment, CA

Purchase Price \$ 70,000 Current Value \$ 50,000 Account/Loan No. _____

Lender's Name and Address Sport Leasing

Original Loan Amount \$ 70,000 ^{approx.} Current Loan Balance \$ 65,000 Monthly Payment \$ 1200

Item 21. Continued

• Vehicle Type 2006 Make Jeep Model Cruiser Year 2008

Registered Owner's Name Jeff Benin Registration State & No. _____

Address of Vehicle's Location 18650 Town Center Dr., Costa Mesa CA

Purchase Price \$ 20,000 Current Value \$ 12,000 Account/Loan No. _____

Lender's Name and Address Chrysler Financial Network

Original Loan Amount \$ 20,000 Current Loan Balance \$ 18,000 Monthly Payment \$ 550

2005 Dodge 999R; LBS Financial; \$10,500 cash; \$8500 cash; \$602 a month
Item 22. Real Property

List all real estate held by you, your spouse, or your dependents, or held by others for the benefit of you, your spouse, or your dependents.

None in Jeff Benin's name
• Type of Property Residence (Family) Property's Location 360 Remington, Aliso Viejo CA

Name(s) on Title and Ownership Percentages Stacy Sperand (60%) Family wife (40% pending)

Acquisition Date 2000 Purchase Price \$ 750,000 Current Value \$ 7

Basis of Valuation N/A Loan or Account No. _____

Lender's Name and Address Wachovia

Current Balance On First Mortgage \$ 750,000 + Monthly Payment \$ 4300

Other Loan(s) (describe) _____ Current Balance \$ _____

Monthly Payment \$ _____ Rental Unit? _____ Monthly Rent Received \$ _____

• Type of Property _____ Property's Location _____

Name(s) on Title and Ownership Percentages _____

Acquisition Date _____ Purchase Price \$ _____ Current Value \$ _____

Basis of Valuation _____ Loan or Account No. _____

Lender's Name and Address _____

Current Balance On First Mortgage \$ _____ Monthly Payment \$ _____

Other Loan(s) (describe) _____ Current Balance \$ _____

Monthly Payment \$ _____ Rental Unit? _____ Monthly Rent Received \$ _____

Item 23. Credit Cards

List each credit card held by you, your spouse, or your dependents. Also list any other credit cards that you, your spouse, or your dependents use.

<u>Name of Credit Card (e.g., Visa, MasterCard, Department Store)</u>	<u>Account No.</u>	<u>Name(s) on Account</u>	<u>Current Balance</u>	<u>Minimum Monthly Payment</u>
- VISA	[REDACTED]	[REDACTED]	\$ 2300	\$ 200
Prepaidlynn	[REDACTED]	[REDACTED]	\$ 0	\$ 0
			\$	\$
			\$	\$
			\$	\$
			\$	\$

Item 24. Taxes Payable

List all taxes, such as income taxes or real estate taxes, owed by you, your spouse, or your dependents.

<u>Type of Tax</u>	<u>Amount Owed</u>	<u>Year Incurred</u>
Federal	\$ 1,000,000 Dividend	1996-2008
State	\$ 250,000 Dividend - 500,000	1996-2008
	\$	
	\$	

Item 25. Judgments or Settlements Owed

List all judgments or settlements owed by you, your spouse, or your dependents.

Opposing Party's Name & Address Adam J. Schwach, COMPANY 150 E. Colorado Blvd
 Court's Name & Address DC Superior Ct Docket No. 30-2008-06101867
 Nature of Lawsuit Note unpaid Date MAY 2009 Amount \$ 200,000

*COMPANY 150 E. Colorado Blvd
 ASSESSOR/C 91105
 -CC
 PC-
 CT*

Item 26. Other Loans and Liabilities

List all other loans or liabilities in your, your spouse's, or your dependents' names.

Name & Address of Lender/Creditor J. Lovvick
 Nature of Liability Loan Name(s) on Liability Jeff Bennie + Corp.
 Date of Liability 2007 - TO DATE Amount Borrowed \$ 100,000 Current Balance \$ 100,000
 Payment Amount \$ 3000 Frequency of Payment MONTHLY INT.
 Name & Address of Lender/Creditor _____
 Nature of Liability _____ Name(s) on Liability _____
 Date of Liability _____ Amount Borrowed \$ _____ Current Balance \$ _____
 Payment Amount \$ _____ Frequency of Payment _____

OTHER FINANCIAL INFORMATION

Item 27. Tax Returns

List all federal tax returns that were filed during the last three years by or on behalf of you, your spouse, or your dependents. Provide a copy of each signed tax return that was filed during the last three years.

<u>Tax Year</u>	<u>Name(s) on Return</u>	<u>Refund Expected</u>
<u>2007</u>	<u>Jeff Bennie</u>	<u>\$ NO</u>
<u>2006</u>	<u>" + Stacy Szwed</u>	<u>\$ NO</u>
<u>2005</u>	<u>" + Stacy Szwed</u>	<u>\$ NO</u>

Item 28. Applications for Credit

List all applications for bank loans or other extensions of credit that you, your spouse, or your dependents have submitted within the last two years. Provide a copy of each application, including all attachments.

Name(s) on Application _____ Name & Address of Lender _____
I have no such applications
in my possession

Item 29. Trusts and Escrows

List all funds or other assets that are being held in trust or escrow by any person or entity for you, your spouse, or your dependents. Also list all funds or other assets that are being held in trust or escrow by you, your spouse, or your dependents, for any person or entity. Provide copies of all executed trust documents.

<u>Trustee or Escrow Agent's Name & Address</u>	<u>Date Established</u>	<u>Grantor</u>	<u>Beneficiaries</u>	<u>Present Market Value of Assets</u>
<i>Wah</i>				\$
				\$
				\$
				\$
				\$

Item 30. Transfers of Assets

List each person to whom you have transferred, in the aggregate, more than \$2,500 in funds or other assets during the previous three years by loan, gift, sale, or other transfer. For each such person, state the total amount transferred during that period.

<u>Transferee's Name, Address, & Relationship</u>	<u>Property Transferred</u>	<u>Aggregate Value</u>	<u>Transfer Date</u>	<u>Type of Transfer (e.g., Loan, Gift)</u>
<i>J. GRENCH</i> <i>J. GRENCH</i>	<i>TIPLES TO 2003 H2 Homes; 2001 BUCAN 748 MORTGAGE</i>	<i>\$10,000 - 15,000</i>	<i>2004</i>	<i>Security for Loan</i>
				\$
				\$
				\$
				\$
				\$

SUMMARY FINANCIAL SCHEDULES

Item 31. Combined Balance Sheet for You, Your Spouse, and Your Dependents

<u>ASSETS AS OF 5/26/09</u>		<u>LIABILITIES</u>	
Cash on Hand (Item 12)	\$ <u>200</u>	Credit Cards (Item 23)	\$ <u>2300</u>
Cash in Financial Institutions (Item 12)	\$ <u>1,100</u>	Motor Vehicles - Liens (Item 21)	\$ <u>N/A</u> \$ <u>vehicles are</u>
U.S. Government Securities (Item 13)	\$ <u>0</u>	Real Property - Encumbrances (Item 22)	\$ <u>0</u> <u>LOAN</u>
Publicly Traded Securities (Item 14)	\$ <u>0</u>	Loans Against Publicly Traded Securities (Item 14)	\$ <u>0</u>
Other Business Interests (Item 15)	\$ <u>0</u>	Taxes Payable (Item 24)	\$ <u>1,000 + 1500</u>
Judgments or Settlements Owed to You (Item 16)	\$ <u>0</u>	Judgments or Settlements Owed (Item 25)	\$ <u>400,000 +</u>
Other Amounts Owed to You (Item 17)	\$ <u>0</u>	Other Loans and Liabilities (Item 26)	\$ <u>100,000</u>
Surrender Value of Life Insurance (Item 18)	\$ <u>0</u>	Other Liabilities (Itemize)	
Deferred Income Arrangements (Item 19)	\$ <u>0</u>	<u>Special Support @</u>	\$ <u>150,000</u>
Personal Property (Item 20)	\$ <u>800-10,000</u>	<u>\$ 13,000 + 1 month for at least 12</u>	\$ _____
Motor Vehicles (Item 21)	\$ <u>0 per equity</u>	<u>MAN MONTHS</u>	\$ _____
Real Property (Item 22)	\$ <u>0</u>		\$ _____
Other Assets (Itemize)			\$ _____
<u>ASSETS</u>	\$ _____		\$ _____
	\$ _____		\$ _____
	\$ _____		\$ _____
	\$ _____		\$ _____
	\$ _____		\$ _____
Total Assets	\$ <u>20,000 +</u>	Total Liabilities	\$ <u>1,650,300</u>

* I have no opinion of value of used personal property in this market.

Initials OM

Item 32. Combined Average Monthly Income and Expenses for You, Your Spouse, and Your Dependents for the Last 6 Months

Provide the average monthly income and expenses for you, your spouse, and your dependents for the last 6 months. Do not include credit card payments separately; rather, include credit card expenditures in the appropriate categories.

<u>INCOME</u>		<u>EXPENSES</u>	
Salary - After Taxes	\$ <u>24,000 -</u> \$ <u>32,100 APRIL x</u>	Mortgage Payments for Residence(s)	\$ <u>6,000</u>
Fees, Commissions, and Royalties	\$ <u>0</u>	Property Taxes for Residence(s)	\$ <u>0</u>
Interest	\$ <u>0</u>	Rental Property Expenses, Including Mortgage Payments, Taxes, and Insurance	\$ <u>0</u>
Dividends and Capital Gains	\$ <u>0</u>	Car or Other Vehicle Lease or Loan Payments	\$ <u>3000</u>
Gross Rental Income	\$ <u>0</u>	Food Expenses	\$ <u>2500</u>
Profits from Sole Proprietorships	\$ <u>0</u>	Clothing Expenses	\$ <u>500</u>
Distributions from Partnerships, S-Corporations, and LLCs	\$ <u>0</u>	Utilities	\$ <u>1000</u>
Distributions from Trusts and Estates	\$ <u>0</u>	Medical Expenses, Including Insurance	\$ <u>500</u>
Distributions from Deferred Income Arrangements	\$ <u>0</u>	Other Insurance Premiums	\$ <u>1000</u>
Social Security Payments	\$ <u>0</u>	Other Transportation Expenses	\$ <u>1500 gas</u>
Alimony/Child Support Received	\$ <u>0</u>	Other Household Expenses	\$ <u>2000 Miscad</u> <i>including child's school</i>
Gambling Income	\$ <u>0</u>	<u>Other Expenses (Itemize)</u>	
<u>Other Income (Itemize)</u>		<u>Spouse Support</u>	\$ <u>13,400</u>
_____	\$ _____	<u>UNPAID TAXES</u>	\$ <u>2000</u>
_____	\$ _____	<u>MINIMUM PAYMENTS</u>	\$ _____
_____	\$ _____		\$ _____
Total Income	\$ <u>32,100</u>	Total Expenses	\$ <u>30,900 +</u>

ATTACHMENTS

Item 33. Documents Attached to this Financial Statement

List all documents that are being submitted with this financial statement.

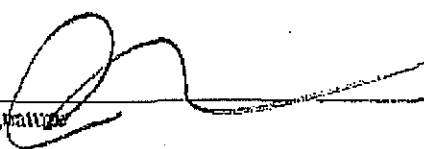
<u>Item No.</u>	<u>Document Relates To</u>	<u>Description of Document</u>
4	U.S. v. Bernie	Complaint / Unpaid Fees 2009 Filing

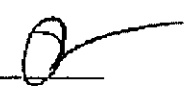
	Schedule of Assets and Liabilities in	2008 2/08
	Bernie v. Bernie Duane	

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:

5/24/09
(Date)


Signature

Initials 

JB 5

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 JEFFREY S. BENNETT, ARLC
Primary Business Address 650 TOWN CENTER DR # 1300 COSTA MESA CA 92626 From (Date) 2002
Telephone No. 714-641-3600 Fax No. 714-641-3604
E-Mail Address JSB@JEFFREYBENNETT.COM Internet Home Page _____

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

Address ~~ST#~~ PO Box 16579 From/Until 1995 to date
Irvine, CA 92623-6579 From/Until _____
Address _____ From/Until _____

All predecessor companies for past five years:

Name & Address W/A From/Until _____
Name & Address _____ From/Until _____
Name & Address _____ From/Until _____

Item 2. Legal Information

Federal Taxpayer ID No. [REDACTED] State & Date of Incorporation CA 12/2000
State Tax ID No. N/A State N/A Profit or Not For Profit For Profit
Corporation's Present Status: Active Inactive _____ Dissolved _____
If Dissolved: Date dissolved _____ By Whom _____
Reasons _____
Fiscal Year-End (Mo./Day) 12/31 Corporation's Business Activities LAW

Item 3. Registered Agent

Name of Registered Agent J Bennett
Address SAME Telephone No. SAME

Initials [Signature]

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>
Jeff Beami	(same as corp.) Residence 10 Mission Ridge Ladera Ranch, CA 92624	100

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>
Jeff Beami	(same as corp.) 10 Mission Ridge Ladera Ranch, CA 92624	100	

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>
Jeff Beami	President	100%

Item 7. Businesses Related to the Corporation

List all corporations, partnerships, and other business entities in which this corporation has an ownership interest.

<u>Name & Address</u>	<u>Business Activities</u>	<u>% Owned</u>
<i>None</i>		

State which of these businesses, if any, has ever transacted business with the corporation _____

Item 8. Businesses Related to Individuals

List all corporations, partnerships, and other business entities in which the corporation's principal stockholders, board members, or officers (i.e., the individuals listed in Items 4 - 6 above) have an ownership interest.

<u>Individual's Name</u>	<u>Business Name & Address</u>	<u>Business Activities</u>	<u>% Owned</u>
<i>None</i>			

State which of these businesses, if any, have ever transacted business with the corporation _____

Item 9. Related Individuals

List all related individuals with whom the corporation has had any business transactions during the three previous fiscal years and current fiscal year-to-date. A "related individual" is a spouse, sibling, parent, or child of the principal stockholders, board members, and officers (i.e., the individuals listed in Items 4 - 6 above).

<u>Name and Address</u>	<u>Relationship</u>	<u>Business Activities</u>
<i>None</i>		

Item 10. Outside Accountants

List all outside accountants retained by the corporation during the last three years.

<u>Name</u>	<u>Firm Name</u>	<u>Address</u>	<u>CPA/PA?</u>
B. J. Summitt, CPA	BICA, CA		CPA

Item 11. Corporation's Recordkeeping

List all individuals within the corporation with responsibility for keeping the corporation's financial books and records for the last three years.

<u>Name, Address, & Telephone Number</u>	<u>Position(s) Held</u>
Jeff Benn (same as above)	Partner

Item 12. Attorneys

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

<u>Name</u>	<u>Firm Name</u>	<u>Address</u>
None		

Item 13. Pending Lawsuits Filed by the Corporation *None*

List all pending lawsuits that have been filed by the corporation in court or before an administrative agency. (List lawsuits that resulted in final judgments or settlements in favor of the corporation in Item 25).

Opposing Party's Name & Address _____

Court's Name & Address _____

Docket No. _____ Relief Requested _____ Nature of Lawsuit _____

_____ Status _____

Opposing Party's Name & Address _____

Court's Name & Address _____

Docket No. _____ Relief Requested _____ Nature of Lawsuit _____

_____ Status _____

Opposing Party's Name & Address _____

Court's Name & Address _____

Docket No. _____ Relief Requested _____ Nature of Lawsuit _____

_____ Status _____

Opposing Party's Name & Address _____

Court's Name & Address _____

Docket No. _____ Relief Requested _____ Nature of Lawsuit _____

_____ Status _____

Opposing Party's Name & Address _____

Court's Name & Address _____

Docket No. _____ Relief Requested _____ Nature of Lawsuit _____

_____ Status _____

Opposing Party's Name & Address _____

Court's Name & Address _____

Docket No. _____ Relief Requested _____ Nature of Lawsuit _____

_____ Status _____

Item 14. Current Lawsuits Filed Against the Corporation

Came AS in Jeff Benie

List all pending lawsuits that have been filed against the corporation in court or before an administrative agency. (List lawsuits that resulted in final judgments, settlements, or orders in Items 26 - 27).

*Schedule except for
US v. Benie (Tax)
and Benie v. Benie
(Duan)*

Opposing Party's Name & Address _____

Court's Name & Address _____

Docket No. _____ Relief Requested _____ Nature of Lawsuit _____

_____ Status _____

Opposing Party's Name & Address _____

Court's Name & Address _____

Docket No. _____ Relief Requested _____ Nature of Lawsuit _____

_____ Status _____

Opposing Party's Name & Address _____

Court's Name & Address _____

Docket No. _____ Relief Requested _____ Nature of Lawsuit _____

_____ Status _____

Opposing Party's Name & Address _____

Court's Name & Address _____

Docket No. _____ Relief Requested _____ Nature of Lawsuit _____

_____ Status _____

Opposing Party's Name & Address _____

Court's Name & Address _____

Docket No. _____ Relief Requested _____ Nature of Lawsuit _____

_____ Status _____

Opposing Party's Name & Address _____

Court's Name & Address _____

Docket No. _____ Relief Requested _____ Nature of Lawsuit _____

_____ Status _____

Item 15. Bankruptcy Information

List all state insolvency and federal bankruptcy proceedings involving the corporation. *None*

Commencement Date _____ Termination Date _____ Docket No. _____

If State Court: Court & County _____ If Federal Court: District _____

Disposition _____

Item 16. Safe Deposit Boxes *None*

List all safe deposit boxes, located within the United States or elsewhere, held by the corporation, or held by others for the benefit of the corporation. *On a separate page, describe the contents of each box.*

<u>Owner's Name</u>	<u>Name & Address of Depository Institution</u>	<u>Box No.</u>

FINANCIAL INFORMATION

REMINDER: 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.

Item 17. Tax Returns

List all federal and state corporate tax returns filed for the last three complete fiscal years. *Attach copies of all returns.*

<u>Federal/ State/Both</u>	<u>Tax Year</u>	<u>Tax Due Federal</u>	<u>Tax Paid Federal</u>	<u>Tax Due State</u>	<u>Tax Paid State</u>	<u>Preparer's Name</u>
<i>2007</i>	<i>Fed.</i>	<i>\$ unknown - subject to conclusion of</i>	<i>\$ Audit</i>	<i>\$</i>	<i>\$</i>	<i>Bob Somerville</i>
		<i>\$</i>	<i>\$</i>	<i>\$</i>	<i>\$</i>	
		<i>\$</i>	<i>\$</i>	<i>\$</i>	<i>\$</i>	

Item 18. Financial Statements

Initials *[Signature]*

List all financial statements that were prepared for the corporation's last three complete fiscal years and for the current fiscal year-to-date. *Attach copies of all statements, providing audited statements if available.*

<u>Year</u>	<u>Balance Sheet</u>	<u>Profit & Loss Statement</u>	<u>Cash Flow Statement</u>	<u>Changes in Owner's Equity</u>	<u>Audited?</u>
<i>None</i>					

Item 19. Financial Summary

For each of the last three complete fiscal years and for the current fiscal year-to-date for which the corporation has not provided a profit and loss statement in accordance with Item 17 above, provide the following summary financial information.

	<u>Current Year-to-Date</u>	<u>1 Year Ago</u>	<u>2 Years Ago</u>	<u>3 Years Ago</u>
<u>Gross Revenue</u>	\$ <i>See tax returns (N/A) \$ Subject to ongoing Audit</i>			
<u>Expenses</u>	\$ _____	\$ _____	\$ _____	\$ _____
<u>Net Profit After Taxes</u>	\$ _____	\$ _____	\$ _____	\$ _____
<u>Payables</u>	\$ _____	[REDACTED]		[REDACTED]
<u>Receivables</u>	\$ _____	[REDACTED]		[REDACTED]

Item 20. Cash, Bank, and Money Market Accounts

List cash and all bank and money market accounts, including but not limited to, checking accounts, savings accounts, and certificates of deposit, held by the corporation. The term "cash" includes currency and uncashed checks.

Cash on Hand \$ *20,000* Cash Held for the Corporation's Benefit \$ *None*

<u>Name & Address of Financial Institution</u>	<u>Signator(s) on Account</u>	<u>Account No.</u>	<u>Current Balance</u>
<i>Frost Bank</i>	<i>Jeff Bruni</i>	<i>9402907 127</i>	\$ <i>1500</i> <i>(Avg. Balance \$3000 to 5000)</i>
			\$ _____
			\$ _____

Item 21. Government Obligations and Publicly Traded Securities *None*

List all U.S. Government obligations, including but not limited to, savings bonds, treasury bills, or treasury notes, held by the corporation. Also list all publicly traded securities, including but not limited to, stocks, stock options, registered and bearer bonds, state and municipal bonds, and mutual funds, held by the corporation.

Issuer _____ Type of Security/Obligation _____

No. of Units Owned _____ Current Fair Market Value \$ _____ Maturity Date _____

Issuer _____ Type of Security/Obligation _____

No. of Units Owned _____ Current Fair Market Value \$ _____ Maturity Date _____

Item 22. Real Estate *MM*

List all real estate, including leaseholds in excess of five years, held by the corporation.

Type of Property _____ Property's Location _____

Name(s) on Title and Ownership Percentages _____

Current Value \$ _____ Loan or Account No. _____

Lender's Name and Address _____

Current Balance On First Mortgage \$ _____ Monthly Payment \$ _____

Other Loan(s) (describe) _____ Current Balance \$ _____

Monthly Payment \$ _____ Rental Unit? _____ Monthly Rent Received \$ _____

Type of Property _____ Property's Location _____

Name(s) on Title and Ownership Percentages _____

Current Value \$ _____ Loan or Account No. _____

Lender's Name and Address _____

Current Balance On First Mortgage \$ _____ Monthly Payment \$ _____

Other Loan(s) (describe) _____ Current Balance \$ _____

Monthly Payment \$ _____ Rental Unit? _____ Monthly Rent Received \$ _____

Item 23. Other Assets

Initials *MM*

List all other property, by category, with an estimated value of \$2,500 or more, held by the corporation, including but not limited to, inventory, machinery, equipment, furniture, vehicles, customer lists, computer software, patents, and other intellectual property.

<u>Property Category</u>	<u>Property Location</u>	<u>Acquisition Cost</u>	<u>Current Value</u>
Copiers; computers; office furniture	General 657 Tully Center Dr. Hillside Columbia Heights, DC 20076	\$ <u>Leasing/LEASE</u>	\$ <u>10,000 APPROX</u>
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$

Item 24. Trusts and Escrows *None*

List all persons and other entities holding funds or other assets that are in escrow or in trust for the corporation.

<u>Trustee or Escrow Agent's Name & Address</u>	<u>Description and Location of Assets</u>	<u>Present Market Value of Assets</u>
		\$
		\$
		\$
		\$
		\$
		\$
		\$
		\$

Item 25. Monetary Judgments and Settlements Owed To the Corporation *None*

List all monetary judgments and settlements, recorded and unrecorded, owed to the corporation.

Opposing Party's Name & Address _____

Court's Name & Address _____ Docket No. _____

Nature of Lawsuit _____ Date of Judgment _____ Amount \$ _____

Opposing Party's Name & Address _____

Court's Name & Address _____ Docket No. _____

Nature of Lawsuit _____ Date of Judgment _____ Amount \$ _____

Item 26. Monetary Judgments and Settlements Owed By the Corporation

*Same as Jeffrey
Benic,*

List all monetary judgments and settlements, recorded and unrecorded, owed by the corporation.

Opposing Party's Name & Address _____

Court's Name & Address _____ Docket No. _____

Nature of Lawsuit _____ Date _____ Amount \$ _____

Opposing Party's Name & Address _____

Court's Name & Address _____ Docket No. _____

Nature of Lawsuit _____ Date of Judgment _____ Amount \$ _____

Opposing Party's Name & Address _____

Court's Name & Address _____ Docket No. _____

Nature of Lawsuit _____ Date of Judgment _____ Amount \$ _____

Opposing Party's Name & Address _____

Court's Name & Address _____ Docket No. _____

Nature of Lawsuit _____ Date of Judgment _____ Amount \$ _____

Opposing Party's Name & Address _____

Court's Name & Address _____ Docket No. _____

Nature of Lawsuit _____ Date of Judgment _____ Amount \$ _____

Item 27. Government Orders and Settlements

List all existing orders and settlements between the corporation and any federal or state government entities.

Name of Agency _____ Contact Person _____

Initials 

Address _____ Telephone No. _____

Agreement Date _____ Nature of Agreement _____

Item 28. Credit Cards *N/A*

List all of the corporation's credit cards and store charge accounts and the individuals authorized to use them.

<u>Name of Credit Card or Store</u>	<u>Names of Authorized Users and Positions Held</u>

Item 29. Compensation of Employees

List all compensation and other benefits received from the corporation by the five most highly compensated employees, independent contractors, and consultants (other than those individuals listed in Items 5 and 6 above), for the two previous fiscal years and current fiscal year-to-date. "Compensation" includes, but is not limited to, salaries, commissions, consulting fees, bonuses, dividends, distributions, royalties, pensions, and profit sharing plans. "Other benefits" include, but are not limited to, loans, loan payments, rent, car payments, and insurance premiums, whether paid directly to the individuals, or paid to others on their behalf.

<u>Name/Position</u>	<u>Current Fiscal Year-to-Date</u>	<u>1 Year Ago</u>	<u>2 Years Ago</u>	<u>Compensation or Type of Benefits</u>
<i>Jeff Bruni</i>	<i>Unknown</i>	<i>450,000</i>	<i>496,000</i>	<i>Income</i>
<i>[Signature]</i>	\$	<i>Approx.</i>	<i>Approx.</i>	
	\$	\$	\$	
	\$	\$	\$	
	\$	\$	\$	

Item 30. Compensation of Board Members and Officers *None*

List all compensation and other benefits received from the corporation by each person listed in Items 5 and 6, for the current fiscal year-to-date and the two previous fiscal years. "Compensation" includes, but is not limited to, salaries, commissions, consulting fees, dividends, distributions, royalties, pensions, and profit sharing plans. "Other benefits" include, but are not limited to, loans, loan payments, rent, car payments, and insurance premiums, whether paid directly to the individuals, or paid to others on their behalf.

<u>Name/Position</u>	<u>Current Fiscal Year-to-Date</u>	<u>1 Year Ago</u>	<u>2 Years Ago</u>	<u>Compensation or Type of Benefits</u>
	\$	\$	\$	
	\$	\$	\$	
	\$	\$	\$	
	\$	\$	\$	
	\$	\$	\$	
	\$	\$	\$	
	\$	\$	\$	
	\$	\$	\$	
	\$	\$	\$	

Item 31. Transfers of Assets Including Cash and Property *N/A*

List all transfers of assets over \$2,500 made by the corporation, other than in the ordinary course of business, during the previous three years, by loan, gift, sale, or other transfer.

<u>Transferee's Name, Address, & Relationship</u>	<u>Property Transferred</u>	<u>Aggregate Value</u>	<u>Transfer Date</u>	<u>Type of Transfer (e.g., Loan, Gift)</u>
		\$		
		\$		
		\$		
		\$		
		\$		

Item 32. Documents Attached to the Financial Statement

List all documents that are being submitted with the financial statement.

<u>Item No.</u>	<u>Document Relates To</u>	<u>Description of Document</u>
		2007 Corp. Tax Return <u>DIRT</u>

JB 6

THIS FORM SHOULD NOT BE FILED WITH THE COURT

FL-142

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address) JEFFREY S. BENICE, ESQ. (SBN. 81583) A Professional Law Corporation 650 Town Center Drive, Suite 1300 Costa Mesa, CA 92626		TELEPHONE NO.: (714) 641-3600 (714) 641-3604
ATTORNEY FOR (Name) JEFFREY S. BENICE; PETITIONER IN PRO PER		
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE - LAMOREUX JUSTICE CENTER		
PETITIONER: JEFFREY S. BENICE RESPONDENT: STACY EMERALD BENICE		
SCHEDULE OF ASSETS AND DEBTS <input checked="" type="checkbox"/> Petitioner's <input type="checkbox"/> Respondent's		CASE NUMBER: 07D001362

— INSTRUCTIONS —

List all your known community and separate assets or debts. Include assets even if they are in the possession of another person, including your spouse. If you contend an asset or debt is separate, put P (for Petitioner) or R (for Respondent) in the first column (separate property) to indicate to whom you contend it belongs.

All values should be as of the date of signing the declaration unless you specify a different valuation date with the description. For additional space, use a continuation sheet numbered to show which item is being continued.

ITEM NO.	ASSETS DESCRIPTION	SEP. PROP.	DATE ACQUIRED	CURRENT GROSS FAIR MARKET VALUE	AMOUNT OF MONEY OWED OR ENCUMBRANCE
1.	REAL ESTATE (Give street addresses and attach copies of deeds with legal descriptions and latest lender's statement.)			\$	\$
21	Arboretum Irvine, CA 92626	P	12/07 [previously lease optioned]	550,000	525,000
38	Remington Aliso Viejo, CA 92626		2000	Unknown; \$1,100,000+	650,000
2.	HOUSEHOLD FURNITURE, FURNISHINGS, APPLIANCES (Identify.)				
	Sofa; table; flat-screen; miscell. kitchen ware; 2 beds; 2 dressers; miscell. art; grand piano; numerous lithographs and oil paintings; photographs; books; stereo system; and other personal items located at 38 Remington.	P	1994-2007	\$25,000+	0
3.	JEWELRY, ANTIQUES, ART, COIN COLLECTIONS, etc. (Identify.)				
	Miscell. watches; photographs; guitars and related items; grand piano; oil paintings; collectibles from World Series/etc.; stereo system.	P	Throughout last 22 yrs.	\$25,000	0

Series/etc.; stereo system.

Page 1 of 4

ITEM NO.	ASSETS DESCRIPTION	SEP. PROP	DATE ACQUIRED	CURRENT GROSS FAIR MARKET VALUE	AMOUNT OF MONEY OWED OR ENCUMBRANCE
	4. VEHICLES, BOATS, TRAILERS <i>(Describe and attach copy of title document.)</i>			\$	\$
	2004 Porsche Turbo	P	2004	75,000	74,500
	2003 H-2	P	2003	25,000	12,500
	Trailer	P	2004	2,500	0
	Ducati 999R	P	2006	18,500	16,500
	Ducati 748	P	2007	4,500	0
	Kawasaki	P	2007	4,500	4,500
	5. SAVINGS ACCOUNTS <i>(Account name, account number, bank, and branch. Attach copy of latest statement.)</i>				
	See attached. Isabella's savings.	P	2006-2007		7,000+
	6. CHECKING ACCOUNTS <i>(Account name and number, bank, and branch. Attach copy of latest statement.)</i>				
	None/only business account.	P			
	7. CREDIT UNION, OTHER DEPOSIT ACCOUNTS <i>(Account name and number, bank, and branch. Attach copy of latest statement.)</i>				
	None.				
	8. CASH <i>(Give location.)</i>				
	In Petitioner's wallet on 2/20/07	P	\$200		
	9. TAX REFUND				
	None.				
	10. LIFE INSURANCE WITH CASH SURRENDER OR LOAN VALUE <i>(Attach copy of declaration page for each policy.)</i>				
	None.				

ITEM NO.	ASSETS DESCRIPTION	SEP. PROP	DATE ACQUIRED	CURRENT GROSS FAIR MARKET VALUE	AMOUNT OF MONEY OWED OR ENCUMBRANCE
11.	STOCKS, BONDS, SECURED NOTES, MUTUAL FUNDS (Give certificate number and attach copy of the certificate or copy of latest statement.) *See attached 2007 stock summary. *See attached One Touch Corp. Stock Certificate.	P	11/2001	\$ 12,000+ Unknown	\$ 0 0
12.	RETIREMENT AND PENSIONS (Attach copy of latest summary plan documents and latest benefit statement.) *See attached First Bank *See attached Brobeck, Phleger & Harrison retirement state.	P P		28,000+ Unknown	
13.	PROFIT - SHARING, ANNUITIES, IRAS, DEFERRED COMPENSATION (Attach copy of latest statement.) *See attached First Bank.	P			
14.	ACCOUNTS RECEIVABLE AND UNSECURED NOTES (Attach copy of each.) None.				
15.	PARTNERSHIPS AND OTHER BUSINESS INTERESTS (Attach copy of most current K-1 form and Schedule C.) *See attached B&W partnership document.	P	12/07	Unknown; project in Bk.	
16.	OTHER ASSETS *Photographs for charitable art deduction. *1997 Harley Davidson Softtail Custom *2007 Ducati 748	P P P	2006-2007 1996-1997 2007	100,000 15,000+ 3,500	0 0 0
17.	TOTAL ASSETS FROM CONTINUATION SHEET				
18.	TOTAL ASSETS			\$ 1,988,500	\$ 1,283,000

ITEM NO.	DEBTS—SHOW TO WHOM OWED	SEP. PROP.	TOTAL OWING	DATE INCURRED
19. STUDENT LOANS (Give details.) n/a 1994-1999: \$800,000 disputed. 20. TAXES (Give details.) 2004: \$125,000+ 2005: \$150,000+ estimate 2006: \$200,000+ estimate 2007: \$50,000 estimate 21. SUPPORT ARREARAGES (Attach copies of orders and statements.) Unknown; I dispute any arrearages until Duckworth analysis is complete.			\$ n/a 800,000+ 125,000+ 150,000+ 200,000+ 50,000	
22. LOANS—UNSECURED (Give bank name and loan number and attach copy of latest statement.) \$39,500 Eugene Ong/D. Ha [business loan] \$25,000 Eugene Ong/D. Ha [business loan]		X X	39,500 25,000	2007 2007
23. CREDIT CARDS (Give creditor's name and address and the account number. Attach copy of latest statement.) Visa Merrill Lynch		x x	2,200 0	2007-2008 0
24. OTHER DEBTS (Specify): Mortgage, 21 Arboretum, Irvine, CA See I&E 2/22/08 for other debts. [Exh. "A"]		x	550,000 Approx.	2007
25. TOTAL DEBTS FROM CONTINUATION SHEET				
26. TOTAL DEBTS			\$ 1,941,700	

27. (Specify number): _____ pages are attached as continuation sheets.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: FEBRUARY 22, 2008

JEFFREY S. BENICE, IN PRO PER

(TYPE OR PRINT NAME)



(SIGNATURE OF DECLARANT)

JB 7

Form **1120**

U.S. Corporation Income Tax Return

OMB No. 1545-0123

For calendar year 2007 or tax year beginning _____, 2007, ending _____

2007

Department of the Treasury
Internal Revenue Service

G See separate instructions.

A Check if:
 1 a Consolidated return (attach Form 951)
 b Life/nonlife consolidated return
 2 Personal holding co (attach Sch-PH)
 3 Personal service corp (see instr)
 4 Schedule M-3 attached

Use IRS label: **JEFFREY S BENICE, A PROFESSIONAL LAW CORPORATION**
 Otherwise, print or type: **P O BOX 16579 IRVINE, CA 92623-6579**

B Employer identification number

C Date incorporated
3/24/2000
D Total assets (see instructions)
 \$ **0.**

E Check if: (1) Initial return (2) Final return (3) Name change (4) Address change

INCOME	1 a Gross receipts or sales	910,117.	b Less returns & allowances		c Balance	G	1c	910,117.
	2 Cost of goods sold (Schedule A, line 8)						2	
	3 Gross profit. Subtract line 2 from line 1c						3	910,117.
	4 Dividends (Schedule C, line 19)						4	75.
	5 Interest						5	
	6 Gross rents						6	
	7 Gross royalties						7	
	8 Capital gain net income (attach Schedule D (Form 1120))						8	
	9 Net gain or (loss) from Form 4797, Part II, line 17 (attach Form 4797)						9	
	10 Other income (see instructions attach schedule)						10	
	11 Total income. Add lines 3 through 10						G	11

DEDUCTIONS	12 Compensation of officers (Schedule E, line 4)						12	
	13 Salaries and wages (less employment credits)						13	56,783.
	14 Repairs and maintenance						14	1,705.
	15 Bad debts						15	
	16 Rents						16	76,079.
	17 Taxes and licenses						17	1,549.
	18 Interest						18	3,698.
	19 Charitable contributions						19	
	20 Depreciation from Form 4562 not claimed on Schedule A or elsewhere on return (attach Form 4562)						20	
	21 Depletion						21	
	22 Advertising						22	
	23 Pension, profit-sharing, etc. plans						23	
	24 Employee benefit programs						24	
	25 Domestic production activities deduction (attach Form 8903)						25	
	26 Other deductions (attach schedule)			See Statement 1			26	768,540.
	27 Total deductions. Add lines 12 through 26						G	27
28 Taxable income before net operating loss deduction and special deductions. Subtract line 27 from line 11							28	1,838.
29 Less: a Net operating loss deduction (see instructions)			See St. 2	29a	1,026.			
b Special deductions (Schedule C, line 20)				29b	53.		29c	1,079.

TAX AND PAYMENTS	30 Taxable income. Subtract line 29c from line 28 (see instructions)						30	759.	
	31 Total tax (Schedule J, line 10)						31	266.	
	32 a 2006 overpayment credited to 2007	32a							
	b 2007 estimated tax payments	32b							
	c 2007 refund applied for on Form 4466	32c							
	d BalG	32d				0.			
	e Tax deposited with Form 7004	32e							
	f Credits: (1) Form 2439 (2) Form 4136	32f					32g	0.	
	33 Estimated tax penalty (see instructions). Check if Form 2220 is attached						G	33	
	34 Amount owed. If line 32g is smaller than the total of lines 31 and 33, enter amount owed							34	266.
35 Overpayment. If line 32g is larger than the total of lines 31 and 33, enter amount overpaid							35		
36 Enter amount from line 35 you want: Credited to 2008 estimated tax						G	36	Refunded G	

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Sign Here **A** _____ **A** **President & CEO**
 Signature of officer Date Title

May the IRS discuss this return with the preparer shown below (see instructions)? Yes No

Paid Preparer's Use Only

Preparer's signature **A Robert H. Somerville** Date _____
 Firm's name (or yours if self-employed), address, and ZIP code **A Robert H. Somerville, CPA 405 S. State College, Ste. 201 Brea, CA 92821-5728**
 Preparer's SSN or PTIN _____
 EIN _____
 Phone no. **(714) 529-4711**

Schedule A: Cost of Goods Sold (see instructions)

1	Inventory at beginning of year	1	
2	Purchases	2	
3	Cost of labor	3	
4	Additional section 263A costs (attach schedule)	4	
5	Other costs (attach schedule)	5	
6	Total. Add lines 1 through 5	6	
7	Inventory at end of year	7	
8	Cost of goods sold. Subtract line 7 from line 6. Enter here and on page 1, line 2.	8	

9a Check all methods used for valuing closing inventory:

- (i) Cost
- (ii) Lower of cost or market
- (iii) Other (Specify method used and attach explanation.) G

b Check if there was a writedown of subnormal goods: G

c Check if the LIFO inventory method was adopted this tax year for any goods (if checked, attach Form 970): G

d If the LIFO inventory method was used for this tax year, enter percentage (or amounts) of closing inventory computed under LIFO: 9d

e If property is produced or acquired for resale, do the rules of section 263A apply to the corporation? Yes No

f Was there any change in determining quantities, cost, or valuations between opening and closing inventory? If 'Yes,' attach explanation: Yes No

Schedule C: Dividends and Special Deductions (see instructions)

	(a) Dividends received	(b) Percentage	(c) Special deductions (a) x (b)	
1	Dividends from less-than-20%-owned domestic corporations (other than debt-financed stock)	75	70	53
2	Dividends from 20%-or-more-owned domestic corporations (other than debt-financed stock)		80	
3	Dividends on debt-financed stock of domestic and foreign corporations		see instr.	
4	Dividends on certain preferred stock of less-than-20%-owned public utilities		42	
5	Dividends on certain preferred stock of 20%-or-more-owned public utilities		48	
6	Dividends from less-than-20%-owned foreign corporations and certain FSCs		70	
7	Dividends from 20%-or-more-owned foreign corporations and certain FSCs		80	
8	Dividends from wholly owned foreign subsidiaries		100	
9	Total. Add lines 1 through 8. See instructions for limitation			53
10	Dividends from domestic corporations received by a small business investment company operating under the Small Business Investment Act of 1958		100	
11	Dividends from affiliated group members		100	
12	Dividends from certain FSCs		100	
13	Dividends from foreign corporations not included on lines 3, 6, 7, 8, 11, or 12			
14	Income from controlled foreign corporations under subpart F (attach Form(s) 5471)			
15	Foreign dividend gross-up			
16	IC-DISC and former DISC dividends not included on lines 1, 2, or 3			
17	Other dividends			
18	Deduction for dividends paid on certain preferred stock of public utilities			
19	Total dividends. Add lines 1 through 17. Enter here and on page 1, line 4	G 75		
20	Total special deductions. Add lines 9, 10, 11, 12, and 18. Enter here and on page 1, line 29b		G	53

Schedule E: Compensation of Officers (see instructions for page 1, line 12)

Note: Complete Schedule E only if total receipts (line 1a plus lines 4 through 10 on page 1) are \$500,000 or more.

1	(a) Name of officer	(b) Social security number	(c) Percent of time devoted to business	Percent of corporation stock owned		(f) Amount of compensation
				(d) Common	(e) Preferred	
	JEFFREY S BENICE		100 %	100 %	0.00 %	0.
			%	%	%	
			%	%	%	
			%	%	%	
			%	%	%	
2	Total compensation of officers					
3	Compensation of officers claimed on Schedule A and elsewhere on return					
4	Subtract line 3 from line 2. Enter the result here and on page 1, line 12					

Schedule J Tax Computation (see instructions)

1	Check if the corporation is a member of a controlled group (attach Schedule O (Form 1120))	G	<input type="checkbox"/>		
2	Income tax. Check if a qualified personal service corporation (see instructions)	G	<input checked="" type="checkbox"/>	2	266.
3	Alternative minimum tax (attach Form 4626)			3	
4	Add lines 2 and 3			4	266.
5a	Foreign tax credit (attach Form 1118)			5a	
	b Credits from Forms 5735 and 8834			5b	
	c General business credit. Check applicable box(es): <input type="checkbox"/> Form 3800 <input type="checkbox"/> Form 5884 <input type="checkbox"/> Form 6478 <input type="checkbox"/> Form 8835, Section B <input type="checkbox"/> Form 8844 <input type="checkbox"/> Form 8846			5c	
	d Credit for prior year minimum tax (attach Form 8827)			5d	
	e Bond credits from: <input type="checkbox"/> Form 8860 <input type="checkbox"/> Form 8912			5e	
6	Total credits. Add lines 5a through 5e			6	
7	Subtract line 6 from line 4			7	266.
8	Personal holding company tax (attach Schedule PH (Form 1120))			8	
9	Other taxes. Check if from: <input type="checkbox"/> Form 4255 <input type="checkbox"/> Form 8611 <input type="checkbox"/> Form 8697 <input type="checkbox"/> Form 8866 <input type="checkbox"/> Form 8902 <input type="checkbox"/> Other (att schedule)			9	
10	Total tax. Add lines 7 through 9. Enter here and on page 1, line 31.			10	266.

Schedule K Other Information (see instructions)

	Yes	No		Yes	No
1	Check accounting method:				
	<input checked="" type="checkbox"/>	<input type="checkbox"/>	a Cash b Accrual		
	<input type="checkbox"/>		c Other (specify) G		
2	See the instructions and enter the:				
			a Business activity code no. G 541110		
			b Business activity G LAW		
			c Product or service G LEGAL SERVICES		
3		<input checked="" type="checkbox"/>	At the end of the tax year, did the corporation own, directly or indirectly, 50% or more of the voting stock of a domestic corporation? (For rules of attribution, see section 267(c).)		
			If 'Yes,' attach a schedule showing: (a) name and employer identification number (EIN), (b) percentage owned, and (c) taxable income or (loss) before NOL and special deduction of such corporation for the tax year ending with or within your tax year.		
4		<input checked="" type="checkbox"/>	Is the corporation a subsidiary in an affiliated group or a parent-subidiary controlled group? If 'Yes,' enter name and EIN of the parent corporation G		
5	<input checked="" type="checkbox"/>		At the end of the tax year, did any individual, partnership, corporation, estate or trust own, directly or indirectly, 50% or more of the corporation's voting stock? (For rules of attribution, see section 267(c).) If 'Yes,' attach a schedule showing name and identifying number. (Do not include any information already entered in 4 above.) Enter % owned G 100% See Statement 3		
6		<input checked="" type="checkbox"/>	During this tax year, did the corporation pay dividends (other than stock dividends and distributions in exchange for stock) in excess of the corporation's current and accumulated earnings and profits? (See sections 301 and 316.) If 'Yes,' file Form 5452, Corporate Report of Nondividend Distributions. If this is a consolidated return, answer here for the parent corporation and on Form 851, Affiliations Schedule, for each subsidiary.		
7			At any time during the tax year, did one foreign person own, directly or indirectly, at least 25% of (a) the total voting power of all classes of stock of the corporation entitled to vote or (b) the total value of all classes of stock of the corporation? If 'Yes,' enter: (a) Percentage owned. G and (b) Owner's country G		<input checked="" type="checkbox"/>
			c The corporation may have to file Form 5472, Information Return of a 25% Foreign-Owned U.S. Corporation or a Foreign Corporation Engaged in a U.S. Trade or Business. Enter number of Forms 5472 attached. G		
			Check this box if the corporation issued publicly offered debt instruments with original issue discount. G <input type="checkbox"/> If checked, the corporation may have to file Form 8281, Information Return for Publicly Offered Original Issue Discount Instruments.		
9			Enter the amount of tax-exempt interest received or accrued during the tax year. G \$ None		
10			Enter the number of shareholders at the end of the tax year (if 100 or fewer). G 1		
11			If the corporation has an NOL for the tax year and is electing to forego the carryback period, check here. G <input type="checkbox"/> If the corporation is filing a consolidated return, the statement required by Regulations section 1.1502-21(b)(3) must be attached or the election will not be valid.		
12			Enter the available NOL carryover from prior tax years (Do not reduce it by any deduction on line 29a.) G \$ 1,026		
13			Are the corporation's total receipts (line 1a plus lines 4 through 10 on page 1) for the tax year and its total assets at the end of the tax year less than \$250,000? If 'Yes,' the corporation is not required to complete Schedules L, M-1, and M-2 on page 4. Instead, enter the total amount of cash distributions and the book value of property distributions (other than cash) made during the tax year. G \$		<input checked="" type="checkbox"/>

SCHEDULE D
(Form 1120)

Capital Gains and Losses

OMB No. 1545-0123

G- Attach to Form 1120, 1120-C, 1120-F, 1120-FSC, 1120-H, 1120-IC-DISC, 1120-L, 1120-ND, 1120-PC, 1120-POL, 1120-REIT, 1120-RIC, 1120-SF, or certain Forms 990-T.

2007

Department of the Treasury
Internal Revenue Service

G See separate instructions.

Name **JEFFREY S BENTICE, A PROFESSIONAL LAW CORPORATION**

Employer identification number

Part I Short-Term Capital Gains and Losses Assets Held One Year or Less

(a) Description of property (Example: 100 shares of Z Co)	(b) Date acquired (month, day, year)	(c) Date sold (month, day, year)	(d) Sales price (see instructions)	(e) Cost or other basis (see instructions)	(f) Gain or (loss) (Subtract (e) from (d))
1 ALLIANZ RCN GLOBAL	4/09/07	5/31/07	3,000.	3,050.	-50.
AMEDISYS	11/17/06	3/12/07	6,339.	6,229.	110.
CLEARWIRE	3/07/07	3/12/07	3,967.	5,004.	-1,037.
CLOUGH GLOBAL OPPORT	4/25/06	3/08/07	4,186.	5,004.	-818.
GUITAR CENTER	5/31/07	10/10/07	3,339.	2,903.	436.
STARBUCKS CORP	4/21/06	3/12/07	1,613.	2,193.	-580.

2 Short-term capital gain from installment sales from Form 6252, line 26 or 37.	2	
3 Short-term gain or (loss) from like-kind exchanges from Form 8824.	3	
4 Unused capital loss carryover (attach computation).	4	
5 Net short-term capital gain or (loss). Combine lines 1 through 4.	5	-1,939.

Part II Long-Term Capital Gains and Losses Assets Held More Than One Year

6		

DRAFT 070908

7 Enter gain from Form 4797, line 7 or 9.	7	
8 Long-term capital gain from installment sales from Form 6252, line 26 or 37.	8	
9 Long-term gain or (loss) from like-kind exchanges from Form 8824.	9	
10 Capital gain distributions (see instructions).	10	712.
11 Net long-term capital gain or (loss). Combine lines 6 through 10.	11	712.

Part III Summary of Parts I and II

12 Enter excess of net short-term capital gain (line 5) over net long-term capital loss (line 11).	12	
13 Net capital gain. Enter excess of net long-term capital gain (line 11) over net short-term capital loss (line 5).	13	
14 Add lines 12 and 13. Enter here and on Form 1120, page 1, line 8, or the proper line on other returns.	14	0.

Note. If losses exceed gains, see *Capital losses* in the instructions.

JEFFREY S. BENICE, A PROFESSIONAL LAW

Client BENICEPC CORPORATION

7/09/08 08:39PM

Statement 1
Form 1120, Line 26
Other Deductions

Bank Charges.....	\$	10,659.
Copies.....		11,447.
Court fees.....		5,407.
Delivery and Freight.....		22,533.
Dues and Subscriptions.....		2,664.
Expert witness fees.....		3,069.
Fee refunds.....		798.
Insurance.....		5,529.
Internet.....		13,624.
Legal and Professional.....		650,235.
Meals and Entertainment.....		1,765.
Postage.....		13,767.
Settlements.....		12,636.
Supplies.....		4,295.
Telephone.....		7,829.
Travel.....		2,283.
	Total \$	<u>768,540.</u>

Statement 2
Form 1120, Line 29a
Net Operating Loss Deduction

Carryover Generated From Year End 12/31/05	\$	1,026.
Available for Carryover to 2007		1,026.
Total Net Operating Loss Deduction	\$	<u>1,026.</u>

DRAFT 070908

Statement 3
Form 1120, Schedule K, Line 5
50% or More Owners

Name : JEFFREY S. BENICE
ID Number :
Percentage Owned : 100.00%

TAXABLE YEAR 2007 California Corporation Franchise or Income Tax Return

FORM 100

For calendar year 2007 or fiscal year beginning month _____ day _____ year _____ & ending month _____ day _____ year _____

California corporation number C2225668 FEIN _____ Check if corporation has: Refund on line 41 or Amount due on line 43

Corporation name
JEFFREY S BENICE, A PROFESSIONAL LAW CORPORATION

Address (including suite, room, or PMB no.)
P O BOX 16579

City **IRVINE, CA** State **CA** ZIP Code **92623-6579**

Schedule Q Questions

A FINAL RETURN? @ Dissolved Surrendered (withdrawn).
 Merged/Reorganized IRC Section 338 sale QSub election
Enter date: _____ @ _____

B 1 Is income included in a combined report of a unitary group? @ Yes No

2 If 'Yes', indicate: wholly within CA (R&TC 25101.15) within and outside of CA

3 Is there a change in the members listed in Schedule R-7 from the prior year? @ Yes No

4 Enter the number of members (including parent or key corporation) listed in the Schedule R-7, part 1, subject to income or franchise tax @ _____

(continued on Side 2)

		Whole dollars only	
STATE ADJUSTMENTS	1 Net income (loss) before state adjustments. See instructions	@ 1	1,838.
	2 Amount deducted for foreign or domestic tax based on income or profits from Schedule A	@ 2	
	3 Amount deducted for tax under the provisions of the Corporation Tax Law from Schedule A	@ 3	
	4 Interest on government obligations	@ 4	
	5 Net California capital gain from Schedule D, line 11	@ 5	
	6 Depreciation and amortization in excess of amount allowed under California law. Attach form FTB 3885	@ 6	
	7 Net income from corporations not included in federal consolidated return. See instructions	@ 7	
	8 Other additions. Attach schedule(s)	@ 8	
	9 Total. Add line 1 through line 8	@ 9	1,838.
	10 Intercompany dividend deduction. Attach Schedule H (100)	@ 10	
	11 Dividends received deduction	@ 11	
	12 Additional depreciation allowed under CA law. Attach form FTB 3885	@ 12	
	13 Capital gain from federal Form 120, line 6	@ 13	
	14 Contributions	@ 14	
	15 EZ, LAMBRA, or TTA business expense and EZ net interest deduction	@ 15	
	16 Other deductions. Attach schedule(s)	@ 16	
	17 Total. Add line 10 through line 16	@ 17	
	18 Net income (loss) after state adjustments. Subtract line 17 from line 9. See instructions	@ 18	1,838.
INCOME	19 Net income (loss) for state purposes. Complete Schedule R if apportioning income. See instructions	@ 19	1,838.
	20 Net operating loss (NOL) carryover deduction. See instructions	@ 20	226.
	21 Pierce's disease, EZ, LARZ, TTA, or LAMBRA NOL carryover deduction. See instructions	@ 21	
	22 Disaster loss carryover deduction. See instructions	@ 22	
	23 Net income for tax purposes. Combine line 20 through line 22. Then, subtract from line 19	@ 23	1,612.
TAXES	24 Tax. <u>8.84</u> % x line 23 (not less than minimum franchise tax, if applicable)	@ 24	800.
	25 Credit name _____ code no. _____ amount	G 25	
	26 Credit name _____ code no. _____ amount	G 26	
	27 To claim more than two credits, see instructions	@ 27	
	28 Add line 25 through line 27	@ 28	
	29 Balance. Subtract line 28 from line 24 (not less than minimum franchise tax, if applicable)	@ 29	800.
	30 Alternative minimum tax. Attach Schedule P (100). See instructions	@ 30	
	31 Total tax. Add line 29 and line 30	@ 31	800.
PAYMENTS	32 Overpayment from prior year allowed as a credit	@ 32	
	33 2007 Estimated tax payments. See instructions	@ 33	800.
	34 2007 Nonresident or real estate withholding. See inst	@ 34	
	35 Amount paid with extension of time to file tax return	@ 35	
	36 Total payments. Add line 32 through line 35	@ 36	800.

JEFFREY S BENICE, A PROFESSIONAL LAW C2225668

AMOUNT DUE	37 Franchise or income tax due. If line 31 is more than line 36, subtract line 36 from line 31. Go to line 40.	? 37	0.
	38 Overpayment. If line 36 is more than line 31, subtract line 31 from line 36.	? 38	
	39 Amount of line 38 to be credited to 2008 estimated tax.	? 39	
	40 Use Tax. See instructions.	? 40	
	41 Refund. If the sum of line 39 and line 40 is less than line 38, then subtract the result from line 38. See instructions to have the refund directly deposited. a Routing number.	? 41	@ 41a
	b Type: Checking @ <input type="checkbox"/> Savings @ <input type="checkbox"/> c Account number.		@ 41c
	42a Penalties and interest. b @ <input type="checkbox"/> Check if estimate penalty computed using Exception B or C. See instructions.	? 42a	
43 Total amount due. Add line 37, line 39, line 40, and line 42a. Then, subtract line 38 from the result.	43	0.	

Schedule Q Questions (continued from Side 1)

C. If the corporation filed on water's-edge basis pursuant to R&TC Sections 25110 and 25113 in previous years, enter the date water's-edge election ended. @

D Was the corporation's income included in a consolidated federal return? @ Yes No

E Principal business activity code. (Do not leave blank) @ 541110
Business activity LAW

F Product or service LEGAL SERVICES
Date incorporated: 3/24/2000
Where: @ State CA Country USA

G Date business began in California or date income was first derived from California sources. @ 1/01/2001

H First return? @ Yes No
If 'Yes' and this corporation is a successor to a previously existing business, check the appropriate box.
@ (1) sole proprietorship (2) partnership (3) joint venture
(4) corporation (5) other
(attach statement showing name, address, and FEIN/SSN/ITIN of previous business)

I 'Doing business as' name: See instructions @

J 1 For this taxable year, was there a change in control or majority ownership for this corporation or any of its subsidiaries that owned or leased real property in California? @ Yes No
2 For this taxable year, did this corporation or any of its subsidiaries acquire control or majority ownership of any other legal entity that owned or leased real property in California? @ Yes No
3 If this corporation or any of its subsidiaries owned or leased real property in California, has more than 50% of the voting stock of any one of them cumulatively transferred in one or more transactions since March 1, 1975, which was not reported on a previous year's tax return. @ Yes No
(Penalties may apply - see instructions.)

K At any time during the taxable year, was more than 50% of the voting stock:
1 Of the corporation owned by any single interest? @ Yes No
2 Of another corporation owned by this corporation? @ Yes No
3 Of this and one or more other corporations owned or controlled, directly or indirectly, by the same interests? @ Yes No

L If 1 or 3 is 'Yes,' enter the country of the ultimate parent @
If 1, 2 or 3 is 'Yes,' furnish a statement of ownership indicating pertinent names, addresses, and percentages of stock owned. If the owner(s) is an individual, provide the SSN/ITIN St 1

M Has the corporation included a Reportable Transaction or Listed Transaction within this return? (See Instructions for definitions.) @ Yes No
If yes, complete and attach Federal Form 8886 for each transaction.

N Is this corporation apportioning income to California using Schedule R? @ Yes No

O How many affiliates in the combined report are claiming immunity from taxation in California under Public Law 86-272? @
P Corporation headquarters are: @ (1) Within California
(2) Outside of California, within the U.S. (3) Outside of the U.S.

P Location of principal accounting records:
AS ABOVE

Q Accounting method @ (1) Cash (2) Accrual (3) Other

R Does this corporation or any of its subsidiaries have a Deferred Intercompany Stock Account (DISA)? @ Yes No
If yes enter the total balance of all DISAs \$

S Is this corporation or any of its subsidiaries a RIC? @ Yes No

T Is this corporation treated as a REMIC for California purposes? @ Yes No

U Is this corporation a REIT for California purposes? @ Yes No

V Is this corporation an LLC or limited partnership electing to be taxed as a corporation for federal purposes? @ Yes No

W Is this corporation to be treated as a credit union? @ Yes No

X Is the corporation under audit by the IRS or has it been audited by the IRS in a prior year? @ Yes No

Y Have all required information returns (e.g. federal Forms 1099, 5471, 5472, 8300, 8865, etc.) been filed with the Franchise Tax Board? @ N/A Yes No

Z Does the taxpayer (or any corporation of the taxpayer's combined group, if applicable) own 80% or more of the stock of an insurance company? @ Yes No

AA Did this corporation file the federal Schedule M-3 (Form 1120)? @ Yes No

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than taxpayer) is based on all information of which preparer has any knowledge.

Sign Here	Signature of officer G	Title President & CEO	Date	@ Telephone 714-641-3600
	Preparer's signature G Robert H. Somerville	Date	Check if self-employed G <input checked="" type="checkbox"/>	@ Preparer's SSN/PTIN
Paid Preparer's Use Only	Firm's name (or yours, if self-employed) and address G Robert H. Somerville, CPA 405 S. State College, Ste. 201 Brea, CA 92821-5728			@ FEIN @ Telephone (714) 529-4711

JEFFREY S BENICE, A PROFESSIONAL LAW C2225668

Schedule A Taxes Deducted. Use additional sheet(s) if necessary.

(a) Nature of tax	(b) Taxing authority	(c) Total amount	(d) Nondeductible amount
Licenses and Permits		1,549.	0.
Total. Enter total of column (c) on Schedule F, line 17, and amounts in column (d) on Side 1, line 2 or line 3.		1,549.	

Schedule F Computation of Net Income. See instructions.

1 a	Gross receipts or gross sales	910,117.		
b	Less returns and allowance		c Balance	910,117.
2	Cost of goods sold. Attach federal Schedule A (California Schedule V)			
3	Gross profit. Subtract line 2 from line 1c			910,117.
4	Total dividends. Attach federal Schedule C, California Schedule H (100)			75.
5 a	Interest on obligations of the United States and U.S. instrumentalities			
b	Other interest. Attach schedule			
6	Gross rents			
7	Gross royalties			
8	Capital gain net income. Attach federal Schedule D (California Schedule D)			
9	Ordinary gain (loss). Attach federal Form 4797 (California Schedule D-1)			
10	Other income (loss). Attach schedule			
11	Total income. Add line 3 through line 10.			910,192.
12	Compensation of officers. Attach federal Schedule E or equivalent schedule		@ 12	
13	Salaries and wages (not deducted elsewhere)	56,783.	@ 13	
14	Repairs	1,705.	@ 14	
15	Bad debts		@ 15	
16	Rents	76,079.	@ 16	
17	Taxes (California Schedule A)	1,549.	@ 17	
18	Interest. Attach schedule	3,698.	@ 18	
19	Contributions. Attach schedule		@ 19	
20	Depreciation. Attach federal Form 4562 and FTB 3885		@ 20	
21	Less depreciation claimed elsewhere on return		@ 21b	
22	Depletion. Attach schedule		@ 22	
23	Advertising		@ 23	
24	Pension, profit-sharing, plans, etc.		@ 24	
25	Employee benefit plans		@ 25	
26 a	Total travel and entertainment	3,529.	@ 26a	
b	Deductible amounts	1,765.	@ 26b	
27	Other deductions. Attach schedule. Statement 2	766,775.	@ 27	
28	Specific deduction for 23701r or 23701t organizations. See instructions		@ 28	
29	Total deductions. Add line 12 through line 28		@ 29	908,354.
30	Net income before state adjustments. Subtract line 29 from line 11. Enter here and on Side 1, line 1		@ 30	1,838.

Schedule J Add-On Taxes and Recapture of Tax Credits. See instructions.

1	LIFO recapture due to S corporation election, IRC Sec. 1363(d) deferral: \$	@ 1
2	Interest computed under the look-back method for completed long-term contracts (Attach form FTB 3834)	@ 2
3	Interest on tax attributable to installment: a Sales of certain timeshares and residential lots	@ 3a
	b Method for nondealer installment obligations	@ 3b
4	IRC Section 197(f)(9)(B)(ii) election	@ 4
5	Credit recapture name:	@ 5
6	Combine line 1 through line 5, revise Side 1, line 37 or line 38, whichever applies, by this amount. Write 'Schedule J' to the left of line 37 or line 38	@ 6

TAXABLE YEAR 2007 Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations Corporations

CALIFORNIA FORM 3805Q

Attach to your California tax return (Form 100, Form 100S, Form 100W, or Form 109).

Corporation name JEFFREY S BENICE, A PROFESSIONAL LAW CORPORATION	California corporation number C2225668
During the year the corporation incurred the NOL, the corporation was a(n): <input checked="" type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation	FEIN [REDACTED]
<input type="checkbox"/> Exempt Organization <input type="checkbox"/> Limited Liability Company (electing to be taxed as a corporation)	

If the corporation previously filed California tax returns under another corporate name, enter the corporation name and California corporation number:

If the corporation is included in a combined report of a unitary group, see instructions, General Information C, Combined Reporting.

Part I Current year NOL. If you do not have a current year-NOL, go to Part II.

1	Net loss from Form 100, line 19; Form 100W, line 19; Form 100S, line 16; or Form 109, line 2. Enter as a positive number	1	
2	2007 disaster loss from line 1. Enter as a positive number	2	
3	Subtract line 2 from line 1. If zero or less, enter -0- and see instructions	3	
4a	Enter the amount of the loss incurred by a new business included in line 3	4a	
4b	Enter the amount of the loss incurred by an eligible small business included in line 3	4b	
4c	Add line 4a and line 4b	4c	
5	General NOL. Subtract line 4c from line 3	5	
6	2007 NOL carryover. Add line 2, line 4c, and line 5. See instructions	6	

Part II NOL carryover and disaster loss carryover limitations. See instructions.

1	Net income (loss) Enter the amount from Form 100, line 19; Form 100W, line 19; Form 100S, line 16 less line 17 (but not less than -0-); or Form 109, line 2	(g) Available balance	
		1,838.	

Prior Year NOLs

(a) Year of loss	(b) Code - See instrs for Part II, col (b)	(c) Type of NOL - See below	(d) Initial Loss	(e) Carryover from 2006	(f) Amount used in 2007	(g) Available balance	(h) Carryover to 2008 col (e) col (f)
2 2005		GEN	226.	226.	226.	1,612.	0.

Current Year NOLs

(a) Year of loss	(b) Code - See instrs for Part II, col (b)	(c) Type of NOL - See below	(d) Initial Loss	(e) Carryover from 2006	(f) Amount used in 2007	(g) Available balance	(h) Carryover to 2008 col (d) col (f)
3 2007		DIS					
4 2007							
2007							
2007							
2007							

Type of NOL: General (GEN), New Business (NB), Eligible Small Business (ESB), Title 11 (T11), or Disaster (DIS).

Part III 2007 NOL deduction

1	Total the amounts in Part II, line 2, column (f)	1	226.
2	Enter the total amount from line 1 that represents disaster loss carryover deduction here and on Form 100, line 22; Form 100W, line 22; or Form 100S, line 20. Form 109 filers enter -0-	2	0.
3	Subtract line 2 from line 1. Enter the result here and on Form 100, line 20; Form 100W, line 20; Form 100S, line 18; or Form 109, line 4	3	226.

AMT Computation

TAXABLE YEAR 2007 **Net Operating Loss (NOL) Computation and NOL and Disaster Loss Limitations Corporations** CALIFORNIA FORM **-3805Q**

Attach to your California tax return (Form 100, Form 100S, Form 100W, or Form 109).

Corporation name JEFFREY S BENICE, A PROFESSIONAL LAW CORPORATION	California corporation number C2225668
During the year the corporation incurred the NOL, the corporation was a(n): <input type="checkbox"/> Exempt Organization <input type="checkbox"/> Limited Liability Company (electing to be taxed as a corporation) <input checked="" type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation	FEIN ██████████

If the corporation previously filed California tax returns under another corporate name, enter the corporation name and California corporation number:

If the corporation is included in a combined report of a unitary group, see instructions, General Information C, Combined Reporting.

Part I Current year NOL. If you do not have a current year NOL, go to Part II.

1 Net loss from Form 100, line 19; Form 100W, line 19; Form 100S, line 16; or Form 109, line 2. Enter as a positive number	1	
2 2007 disaster loss from line 1. Enter as a positive number	2	
3 Subtract line 2 from line 1. If zero or less, enter -0- and see instructions	3	
4a Enter the amount of the loss incurred by a new business included in line 3	4a	
b Enter the amount of the loss incurred by an eligible small business included in line 3	4b	
c Add line 4a and line 4b	4c	
5 General NOL. Subtract line 4c from line 3	5	
6 2007 NOL carryover. Add line 2, line 4c, and line 5. See instructions	6	

Part II NOL carryover and disaster loss carryover limitations. See instructions.

	(g) Available balance	
1 Net income (loss) Enter the amount from Form 100, line 19; Form 100W, line 19; Form 100S, line 16 less line 17 (but not less than -0-); or Form 109, line 2	1,654.	

Prior Year NOLs

(a) Year of loss	(b) Code - See instrs for Part -II, col (b)	(c) Type of NOL - See below	(d) Initial Loss	(e) Carryover from 2006	(f) Amount used in 2007	(g) Available balance	(h) Carryover to 2008 col (e) col (f)
2	2005	GEN	226.	226.	226.	1,428.	0.

Current Year NOLs

(a) Year of loss	(b) Code - See instrs for Part -II, col (b)	(c) Type of NOL - See below	(d) Initial Loss	(e) Carryover from 2006	(f) Amount used in 2007	(g) Available balance	(h) Carryover to 2008 col (d) col (f)
3	2007	DIS					
4	2007						

Type of NOL: General (GEN), New Business (NB), Eligible Small Business (ESB), Title 11 (T11), or Disaster (DIS).

Part III 2007 NOL deduction

1 Total the amounts in Part II, line 2, column (f)	1	226.
2 Enter the total amount from line 1 that represents disaster loss carryover deduction here and on Form 100, line 22; Form 100W, line 22; or Form 100S, line 20. Form 109 filers enter -0-	2	0.
3 Subtract line 2 from line 1. Enter the result here and on Form 100, line 20; Form 100W, line 20; Form 100S, line 18; or Form 109, line 4	3	226.

2007

California Statements

Page 1

Client BENICEPC

JEFFREY S BENICE, A PROFESSIONAL LAW CORPORATION

C2225668

7/09/08

08:39PM

Statement 1
Form 100, Schedule Q, Question K
More Than 50% Owners

Question K(a) - Officers owning more than 50% of Voting Stock

Name of Officer : JEFFREY S BENICE
Address : 8 CORPORATE PARK, STE 200
IRVINE, CA 92606
Social Security # :
Common Stock % Owned : 100

Statement 2
Form 100, Schedule F, Line 27
Other Deductions

Bank Charges	\$	10,659.
Copies		11,447.
Court fees		5,407.
Delivery and Freight		22,533.
Dues and Subscriptions		2,664.
Expert witness fees		3,069.
Fee refunds		798.
Insurance		5,529.
Internet		13,624.
Legal and Professional		650,235.
Postage		13,767.
Settlements		12,636.
Supplies		4,295.
Telephone		7,829.
Travel		2,283.
Total	\$	<u>766,775.</u>

DRAFT 070908

This Excel workbook uses the prior year as a template for processing the current year activity.
 When the current year is complete, delete any worksheets for banks that have NOT been used in the current year.
 The samples below will familiarize you with the manner in which the bank statement data is to be recorded.

The Seq# is used for restoring the worksheet to the Original Data Entry sequence

Sample Deposits

Jeffrey S Benice, APC FEIN: [REDACTED]

Year 2006

Deposit analysis

First Bank: [REDACTED] Operating account

Date	Acct #	Seq#	Deposits
010506	[REDACTED]	1	780
010906	[REDACTED]	2	1644.71
011106	[REDACTED]	3	235.5
011306	[REDACTED]	4	1000
012406	[REDACTED]	5	2000
013106	[REDACTED]	6	2500
020906	[REDACTED]	7	1000
021306	[REDACTED]	8	3000
022206	[REDACTED]	9	955
030606	[REDACTED]	10	4000
031006	[REDACTED]	11	4142

Sample Checks written

Jeffrey S Benice, APC FEIN: [REDACTED]

Raw Data-not yet distributed

Year 2006

Reconciliation on last page

Checking account analysis

First Bank: [REDACTED] Operating account

Mo/day/yr	Acct #	Seq #	Ck #	Payee	Description	Amount
062306	[REDACTED]	133	3794	Void	Void	-
082406	[REDACTED]	190	3839	Void	Void	-
060906	[REDACTED]	138	dm	Bank S/C	Bank s/c	3.32
050806	[REDACTED]	92	3754	Fedex	Delivery	4.34
121306	[REDACTED]	414	4029	Water Dis	Draw	7.05
122806	[REDACTED]	443	4067	Pitney Bow	Postage	7.44
112006	[REDACTED]	323	3945	Cash	Draw	8.30
030206	[REDACTED]	63	dm	Bank S/C	Bank s/c	8.89
11206	[REDACTED]	23	dm	Bank s/c	Bank s/c	9.50
021006	[REDACTED]	52	dm	Bank S/C	Bank s/c	9.56



urrent year.
ded.

1 **THIRD DECLARATION OF LISA ROSENTHAL**

2 I, Lisa Rosenthal, hereby state as follows:

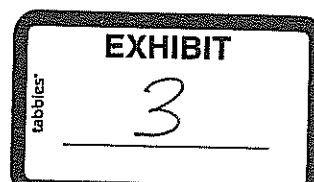
3 1. I am employed as a staff attorney by the Federal Trade Commission (FTC).
4 My business address is 901 Market St., Suite 570, San Francisco, CA 94103. I have
5 personal knowledge of the facts stated herein, and if called to testify, I could and would
6 competently testify to the facts set forth below.

7 2. I served as counsel for the Federal Trade Commission in *FTC v. Network*
8 *Services Depot, et al.*, (U.S. District Court, D. Nev.), CV-S-05-0440-LDG-LRL.

9 3. On or about March 6, 2009, I was carbon copied on an email sent to Jeffrey
10 S. Benice and Marc Forsythe by Kerry O'Brien, a fellow staff attorney in my office who
11 acted as co-counsel *FTC v. Network Services Depot, et al.*, which attached the Final
12 Judgment and Order for Permanent Injunction and Other Equitable Relief in that matter.
13 Attached hereto as Exhibit 1 is a true and correct copy of that email and attachment.

14 4. On or about March 13, 2009, I sent a letter, which I had written, to Jeffrey
15 S. Benice notifying him that pursuant to the Final Judgment and Order for Permanent
16 Injunction and Other Equitable Relief, he should transfer \$238,300 to the FTC no later than
17 March 20, 2009. The letter also provided specific instructions regarding how to wire transfer
18 the funds. Attached hereto as Exhibit 2 is a true and correct copy of that letter.

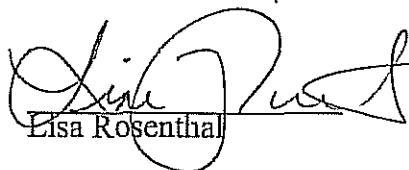
19 5. After March 20, 2009 passed without any transfer of funds as I had
20 instructed in the letter, on or about the week of March 23, 2009, I called Mr. Benice's
21 office and left him a voice mail message in which I notified him that he had not complied
22 with the court's order to transfer \$238,300 to the FTC and requested that he contact me. I
23 then received a voice mail message from Mr. Benice in which he stated that he did not
24 have the funds, that he spent them, and that he planned to appeal the court's order if we
25 could not reach an agreement. He also requested that I call him back during a specific
26 time period. I called during the specified time period, but he was not in the office. I tried
27



1 to reach him by telephone several additional times without success. We did not speak
2 again until on or about April 10, 2009, after the Notice of Appeal had been filed.

3
4 I swear under penalty of perjury that the foregoing is true and correct.

5 Executed at San Francisco, California, this 14th day of Sept., 2009.

6
7 
8 Lisa Rosenthal

Schneider, Laura

From: O'Brien, Kerry
Sent: Friday, March 06, 2009 12:34 PM
To: 'Marc Forsythe'; 'JSB@JeffreyBenice.com'
Cc: Rosenthal, Lisa
Subject: Network Services Depot: Final Judgment and Order
Attachments: Final Judgment and Order.pdf

Please find attached the final judgment and order in this matter, which Judge George signed yesterday.

Kerry

Kerry O'Brien
Attorney
Federal Trade Commission
901 Market Street, Suite 570
San Francisco, CA 94103
(415) 848-5189
(415) 848-5142 (fax)

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

CV-S-05-0440-LDG-LRL

NETWORK SERVICES DEPOT, INC.;
NETWORK MARKETING, LLC, dba
Network Services Marketing;
NETWORK SERVICES DISTRIBUTION,
INC.;
SUNBELT MARKETING, INC.;
CHARLES V. CASTRO;
ELIZABETH L. CASTRO; and
GREGORY HIGH;

Defendants; and

PHYLLIS WATSON,

Relief Defendant.

**FINAL JUDGMENT
AND ORDER FOR PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF**

WHEREAS, Plaintiff Federal Trade Commission ("FTC" or "Commission") commenced this action on April 5, 2005, by filing a complaint for a permanent injunction and other equitable relief in this case pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b (Dkt. #1).

WHEREAS, the Complaint alleges that Defendants, in connection with the marketing and sale of public access Internet terminals, have violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FTC's Trade Regulation Rule titled "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures," formerly codified as 16 C.F.R. Part 436 (2005) ("2005 Franchise Rule"), which rule has been replaced by two separate rules governing franchises and business opportunities as set forth in the Definitions section below.

1 WHEREAS, on April 6, 2005, the Court issued a Temporary Restraining Order in this
2 case (Dkt. #13), which, among other provisions, froze the assets of Defendants and Relief
3 Defendant. On April 14, 2005, the Court granted a Stipulated Preliminary Injunction in this case
4 (Dkt. #35), which, among other provisions, continued the freeze on those assets.

5 WHEREAS, the FTC filed a motion (Dkt. #51, Opposition - Dkt. #56, Reply -
6 Dkt. #62) for an order freezing certain funds transferred by Defendants to their attorneys,
7 arguing among other things, that those funds belong to consumer victims under a constructive
8 trust theory.

9 WHEREAS, on March 24, 2006, the Court entered an order (Dkt. #142), which stated,
10 among other things, that: “[i]f it is ultimately found the transfer of funds (or any portion thereof)
11 to defense counsel should be set aside, or made subject to consumer redress, the FTC may move
12 to that extent to have any depleted funds restored. Defense counsel, presumably, has factored
13 into its fee arrangements the risks of any such result.”

14 WHEREAS, the FTC moved for summary judgment against Defendants for violations of
15 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the 2005 Franchise Rule (Dkt. #78,
16 Response - Dkt. #79, Reply - Dkt. #127).

17 WHEREAS, the FTC’s motion for summary judgment requested that the Court, among
18 other things: (1) find that Defendants Network Services Depot, Inc.; Network Marketing, LLC;
19 Network Services Distribution, Inc.; Sunbelt Marketing, Inc.; Charles V. Castro; Elizabeth
20 Castro, and Gregory High had violated Section 5(a) of the FTC Act and the 2005 Franchise
21 Rule; (2) order injunctive relief and restitution for injured consumers pursuant to § 13(b) and
22 § 19 of the FTC Act, 15 U.S.C. § 53(b) and § 57b; (3) order Defendants Network Services
23 Depot, Inc.; Network Marketing, LLC; Network Services Distribution, Inc.; Sunbelt Marketing,
24 Inc.; Charles V. Castro; and Gregory High to pay restitution to injured consumers; (4) order that
25 the funds in the Castro Children’s Trust (controlled by Relief Defendant Phyllis Watson) be used
26 to pay consumer restitution; and (5) order that certain monies transferred to Defendants’
27 attorneys also be used for consumer restitution.

1 WHEREAS, in support of its motion for summary judgment, the FTC demonstrated that,
2 between mid 2001 and early 2004, consumers paid an aggregate of \$18,867,528 to Defendant
3 Network Services Depot.

4 WHEREAS, on September 29, 2006, the Court entered an order (Dkt. #143), which
5 granted the FTC's motion for summary judgment, with one exception – the Court sought
6 additional briefing on the issue of monies transferred to Defendants' attorneys.

7 WHEREAS, on September 17, 2007, the Court entered an order (Dkt. #175), which
8 found (1) that a portion of monies transferred to Defendants' attorneys are recoverable under the
9 theory of constructive trust; and (2) that the FTC established by clear and convincing evidence
10 (a) that the fee funds derive from corporate defendants' proceeds, (b) that the acquisition of the
11 funds was wrongful, and (c) that the FTC is entitled to the proceeds for consumer redress; but,
12 (3) that, as an equitable matter, the Court would permit payment of defense counsel's reasonable
13 and documented attorneys fees on matters directly related to this specific litigation up to March
14 24, 2006.

15 WHEREAS, on January 8, 2009, the Court entered an order (Dkt. #228), which: (1) states
16 that it would grant Defendants' attorney, the law firm of Jeffrey S. Benice, reasonable fees for
17 documented services directly related to this case between January 1, 2005, and April 1, 2006, at
18 the rate of \$300 for Mr. Benice and at the rate of one-third what Mr. Benice originally requested
19 for other professional services provided by his firm, as well as costs through the period as
20 requested; and (2) ordered Benice to submit to a revised motion for fees.

21 WHEREAS, on February 4, 2009, Mr. Benice filed a declaration (Dkt. #229) seeking
22 \$194,382 in fees and costs.

23 WHEREAS, the FTC and Mr. Benice entered a stipulation on February 25, 2009 (Dkt.
24 #233), stating the amount of fees and costs to which Mr. Benice is entitled pursuant to the
25 January 7, 2009, order is \$136,700.

26 WHEREAS, on February 13, 2009, the Court entered an order (Dkt. #232), which
27 modified the Stipulated Preliminary Injunction in this case so that Washington Mutual Bank may

1 enforce its remedies against real property owned by Defendant Gregory High, located at 90 Echo
2 Run, Irvine, CA. That order stated that, “if [surplus funds resulting from Washington Mutual’s
3 foreclosure proceedings] are realized after a final order has been entered in this matter, such
4 surplus funds be transferred to the FTC pursuant to the terms of the final order.”

5 WHEREAS, on February 27, 2009, the Federal Trade Commission filed a motion titled,
6 *Motion Pursuant to the Court’s January 7, 2009, Order for Entry of Final Judgment and Order.*

7 **THEREFORE, it is hereby ORDER, ADJUDGED, and DECREED as follows:**

8 **FINDINGS**

- 9 1. This Court has jurisdiction over the subject matter of this case and jurisdiction over all
10 parties.
- 11 2. Venue in this district is proper under 15 U.S.C. § 53(b) and 28 U.S.C. § 1391(b) and (c).
- 12 3. The activities of Defendants are in or affecting commerce, as defined in the FTC Act, 15
13 U.S.C. § 44.
- 14 4. The Complaint states a claim upon which relief can be granted against Defendants and
15 Relief Defendant under Sections 5(a), 13(b), and 19 of the Federal Trade Commission
16 Act (“FTC Act”), 15 U.S.C. §§ 45(a), 53(b), and 57b, and under the 2005 Franchise Rule,
17 16 C.F.R. Part 436 (2005).
- 18 5. This Order incorporates the findings and conclusions set forth in the September 29, 2006,
19 order (Dkt. #143) entered by this Court in this case.
- 20 6. Having reviewed the FTC’s Motion for Summary Judgment, the Court finds that between
21 mid 2001 and early 2004, consumers paid an aggregate of \$18,867,528 to Defendant
22 Network Services Depot.
- 23 7. This Order incorporates the findings and conclusions set forth in the March 24, 2006,
24 order (Dkt. #142), the September 17, 2007, order (Dkt. #175), the January 7, 2009, order
25 (Dkt. #228) (collectively, “Attorney Fees Orders”) entered by this Court in this case as to
26 Defendants and Jeffrey S. Benice.
- 27 8. Having reviewed the February 25, 2009, stipulation between the FTC and Mr. Benice,

1 the Court finds that the law firm of Jeffrey S. Benice is entitled to \$136,700 for
2 reasonable attorney fees and costs directly related to this case between January 1, 2005,
3 and April 1, 2006. Therefore, pursuant to the Attorney Fees Orders, the FTC is entitled,
4 for consumer restitution, to the retainer funds paid to the law firm of Jeffrey S. Benice in
5 excess of \$136,700, which amounts to \$238,300.

6 9. The paragraphs of this Order shall be read as the necessary requirements for compliance
7 and not as alternatives for compliance, and no paragraph serves to modify another
8 paragraph unless expressly so stated.

9 10. Each party shall bear its own costs and attorneys' fees.

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

11 **DEFINITIONS**

12 For purposes of this Order, the following definitions shall apply:

13 A. "Assets" means any legal or equitable interest in, right to, or claim to, any real
14 and personal property, including, but not limited to, chattel, goods, instruments, equipment,
15 fixtures, general intangibles, inventory, checks, notes, leaseholds, effects, contracts, mail or other
16 deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables,
17 funds, and cash, wherever located, whether in the United States or abroad.

18 B. "Business Opportunity Rule" means FTC Trade Regulation Rule titled
19 "Disclosure Requirements and Prohibitions Concerning Business Opportunities," codified at 16
20 C.F.R. Part 437, or as it may be amended.

21 C. "Business Venture" means any written or oral business arrangement, however
22 denominated, that is covered by the Franchise Rule or the Business Opportunity Rule, or that
23 consists of the payment of any consideration in exchange for:

24 a. the right or means to offer, sell, or distribute goods or services (regardless
25 of whether identified by a trademark, service mark, trade name,
26 advertising, or other commercial symbol); and

27 b. more than nominal assistance to any person or entity in connection with or

1 incident to the establishment, maintenance, or operation of a new business
2 or the entry by an existing business into a new line or type of business.

3 D. "Corporate Defendants" means Network Services Depot, Inc.; Network
4 Marketing, LLC; Network Services Distribution, Inc.; Sunbelt Marketing, Inc.; and their
5 successors and assigns.

6 E. "Defendants" means all of the Individual Defendants and the Corporate
7 Defendants, individually, collectively, or in any combination.

8 F. "Document" is synonymous in meaning and equal in scope to the usage of the
9 term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts,
10 photographs, audio and video recordings, computer records, and other data compilations from
11 which the information can be obtained and translated, if necessary, through detection devices
12 into reasonably usable form. A draft or non-identical copy is a separate document within the
13 meaning of the term.

14 G. "Franchise Rule" means the FTC Trade Regulation Rule titled "Disclosure
15 Requirements and Prohibitions Concerning Franchising," codified at 16 C.F.R. Part 436, or as it
16 may be amended.

17 H. "Individual Defendants" means Charles V. Castro, Elizabeth L. Castro, and
18 Gregory High.

19 I. "Person" means a natural person, organization or other legal entity, including a
20 corporation, partnership, proprietorship, association, or cooperative, or any other group, or
21 combination acting as an entity.

22 J. "Relief Defendant" means Phyllis Watson.

23 **ORDER**

24 **I.**

25 **BAN ON SALE OF FRANCHISES AND BUSINESS VENTURES**

26 **IT IS THEREFORE ORDERED** that the Corporate Defendants and Defendant Charles
27 V. Castro, directly or through any corporation, partnership, subsidiary, division, trade name,

1 device, or other entity, are hereby permanently restrained and enjoined from:

- 2 A. Advertising, marketing, promoting, offering for sale, selling, or assisting any
3 other person in the sale of any Business Venture; or
- 4 B. Receiving any remuneration or other consideration of any kind whatsoever from
5 any person engaged in or assisting in advertising, marketing, promoting, offering
6 for sale, or selling any Business Venture;
- 7 C. Holding any ownership interest, share, or stock in, any person engaged in
8 advertising, marketing, promoting, offering for sale, or selling any Business
9 Venture; or
- 10 D. Serving as an employee, officer, director, trustee, general manager of, or
11 consultant or advisor to, any person engaged in advertising, marketing,
12 promoting, offering for sale, or selling any Business Venture.

13 Nothing in this Order shall be read as an exception to this Section.

14 **II.**

15 **PROHIBITED REPRESENTATIONS**

16 **IT IS FURTHER ORDERED** that, in connection with the advertising, offering for sale,
17 licensing, contracting, sale or other promotion, in or affecting commerce, of any goods or
18 services, Defendants, directly or through any corporation, partnership, subsidiary, division, trade
19 name, device, or other entity, and their officers, agents, servants, employees, and attorneys, and
20 all persons and entities in active concert or participation with them who receive actual notice of
21 this Order, by personal service or otherwise, are hereby enjoined from misrepresenting,
22 expressly or by implication, any material fact, including, but not limited to:

- 23 A. The existence, performance, efficacy, nature, or central characteristic of such
24 good or service;
- 25 B. The income, profit, or sales volume that a purchaser of such good or service is
26 likely to achieve;
- 27 C. The source of any income or profit sent to a purchaser of such good or service; or

1 D. The availability or existence of locations or profitable locations for such good or
2 service.

3 **III.**

4 **MEANS AND INSTRUMENTALITIES**

5 **IT IS FURTHER ORDERED** that, in connection with the advertising, offering for sale,
6 licensing, contracting, sale or other promotion, in or affecting commerce, of any goods or
7 services, Defendants, directly or through any corporation, partnership, subsidiary, division, trade
8 name, device, or other entity, and their officers, agents, servants, employees, and attorneys, and
9 all persons and entities in active concert or participation with them who receive actual notice of
10 this Order, by personal service or otherwise, are hereby enjoined from providing to others the
11 means or instrumentalities with which to make misrepresentations, expressly or by implication,
12 of any material fact, including, but not limited to, providing others with materials that contain
13 false representations concerning:

- 14 A. The existence, performance, efficacy, nature, or central characteristic of such
15 good or service;
- 16 B. The income, profit, or sales volume that a purchaser of such good or service is
17 likely to achieve;
- 18 C. The source of any income or profit sent to a purchaser of such good or service; or
- 19 D. The availability or existence of locations or profitable locations for such good or
20 service.

21 **IV.**

22 **MONETARY RELIEF**

23 **IT IS FURTHER ORDERED** that:

- 24 A. Judgment is hereby entered jointly and severally against the Corporate
25 Defendants, Defendant Charles V. Castro, and Defendant Gregory High in the
26 amount of eighteen million, eight hundred twenty-seven thousand, five hundred
27 twenty-eight dollars (\$18,827,528), as equitable monetary relief to redress

1 consumer injury. This monetary judgment shall become immediately due and
2 payable by Defendants upon entry of this Order, and interest computed at the rate
3 prescribed under 28 U.S.C. § 1961 shall immediately begin to accrue on the
4 unpaid balance.

5 B. Within ten (10) business days of the date of service of this Order, by personal
6 service or otherwise, Relief Defendant shall pay to the FTC as equitable monetary
7 relief to redress consumer injury all funds contained in the account for which the
8 Relief Defendant is listed as the account holder, trustee, or custodian at Fullerton
9 Community Bank with account number ending in 0690, which was frozen
10 pursuant to the Stipulated Preliminary Injunction in this case, and funds that
11 Fullerton Community Bank removed from such frozen account and is holding
12 separately. That amount shall be at least two hundred seventy thousand, nine
13 hundred seventy-five dollars (\$270,975). In the event of default on the payment
14 required to be made by this Subsection, the entire unpaid judgment, together with
15 interest computed under 28 U.S.C. § 1961 -- accrued from the date of default until
16 the date of payment -- shall be immediately due and payable. *Provided, however,*
17 *that this judgment shall be deemed fully satisfied upon completion of Section V.B*
18 *of this Order.*

19 C. All payments required to be made to the Commission under this Order shall be
20 made by electronic funds transfer in accordance with directions provided by the
21 Commission.

22 D. All funds transferred pursuant to this Order shall be deposited into a fund
23 administered by the FTC, or its designated agent, to be used for equitable relief,
24 including, but not limited to, restitution and any attendant expenses for the
25 administration of any monetary fund. If the Commission determines, in its sole
26 discretion, that direct restitution for consumers is wholly or partially
27 impracticable or funds remain after restitution is completed, the Commission may

1 apply any remaining funds for any other equitable relief (including consumer
2 information remedies) that it determines to be reasonably related to Defendants'
3 practices alleged in the Complaint. Any funds not used for this equitable relief
4 shall be deposited into the U.S. Treasury as disgorgement. Defendants and Relief
5 Defendant shall have no right to challenge the FTC's choice of remedies under
6 this Section.

7 **V.**

8 **TURNOVER OF ASSETS HELD BY THIRD PARTIES**

9 **IT IS FURTHER ORDERED** that to partially satisfy the monetary judgment set forth
10 in the Section titled "Monetary Relief:"

11 A. Any law firm, financial or brokerage institution, escrow agent, title company,
12 commodity trading company, business entity, or person, that holds, controls, or
13 maintains custody of any asset or account of, on behalf of, or for the benefit of,
14 any Corporate Defendant, Defendant Charles V. Castro, or Defendant Gregory
15 High, or has held, controlled, or maintained custody of any account or asset of, on
16 behalf of, or for the benefit of, any such Defendant, shall turn over such asset or
17 all funds in such account to the Commission or its duly authorized agent (as
18 directed by Commission counsel), within ten (10) business days of receiving
19 actual notice of this Order by personal service or otherwise. Those assets or
20 accounts include, but not necessarily limited to:

- 21 1. All frozen funds held at Fullerton Community Bank, including, but not
22 limited to, funds in accounts in the name of, or controlled by, any
23 Defendant, including accounts with account numbers ending in 9150,
24 9169, 1018, 1827, 3179, 0058, 3518, 2905, 0266, and 9753;
- 25 2. All frozen funds held at Union Bank of California, including, but not
26 limited to, funds in the account in the name of, or controlled by, any
27 Defendant, with account number ending in 0230, 7484, and 7674; and

1 hundred dollars (\$238,300) ("Benice Funds"), (b) designate the Benice
2 Funds as: "Retainer Funds Subject to Consumer Restitution in *FTC v.*
3 *Network Services Depot*;" and (c) transfer the Benice Funds to a trust
4 account maintained by the law firm of Jeffrey S. Benice; and

5 2. Within ten (10) business days of the date of receiving actual notice of this
6 Order by personal service or otherwise, transfer the Benice Funds to the
7 Commission or its duly authorized agent (as directed by Commission
8 counsel) by electronic funds transfer, designating the Benice Funds as
9 "Retainer Funds Subject to Consumer Restitution in *FTC v. Network*
10 *Services Depot*."

11 F. If, after entry of this Order, Washington Mutual Bank, its successors, and/or
12 assigns, realizes any excess proceeds (proceeds in excess of payment of all sums
13 that Washington Mutual Bank secured by a deed of trust) upon exercising any
14 rights it has to enforce remedies against real property owned by Defendant
15 Gregory High, located at 90 Echo Run, Irvine, CA, Washington Mutual Bank, its
16 successors, and/or assigns shall transfer such excess proceeds to the Commission
17 or its duly authorized agent (as directed by Commission counsel) within ten (10)
18 business days of realizing such proceeds.

19 G. All payments required to be made to the Commission or its agents or
20 representatives under this Section shall be used as equitable monetary relief to
21 redress consumer injury in accordance with the Section titled "Monetary Relief"
22 and shall be made by electronic funds transfer in accordance with directions
23 provided by the Commission.

24 **VI.**

25 **LIFTING OF THE ASSET FREEZE**

26 **IT IS FURTHER ORDERED** that the freeze of the assets pursuant to the Stipulated

27 Preliminary Injunction in this case shall be lifted to the extent necessary to transfer assets

1 pursuant to Section V.A-D. Once all such assets required to be transferred under such provisions
2 have been transferred, as evidenced by a letter confirming receipt of same from counsel for the
3 Commission, the freeze of the remaining assets shall be lifted permanently.

4 **VII.**

5 **FORFEITURE ACTION**

6 **IT IS FURTHER ORDERED** that, with respect to any assets seized from Bank of
7 America Accounts in the name of Bikini Vending Corporation by the Federal Bureau of
8 Investigation, including approximately one million, five hundred twenty-four thousand dollars
9 (\$1,524,000), which is or has been the subject of *U.S. v. \$1,524,438.90*, SACV 04-910-AHS-
10 MLG (C.D. Calif.):

- 11 A. Within five (5) business days of the date of entry of this Order, Defendants shall
12 release any and all claims they may have to such assets.
- 13 B. Upon entry of this Order, the Defendants shall relinquish all dominion, control,
14 and title to such assets. Defendants shall make no claim to or demand return of
15 such assets, directly or indirectly, through counsel or otherwise.
- 16 C. Such assets and their proceeds may be transferred by the Office of the United
17 States Marshal, or its designated agent, to the Federal Trade Commission, or its
18 designated agent.
- 19 D. Any such assets transferred to the Commission shall be used as equitable
20 monetary relief to redress consumer injury in accordance with the Section titled
21 "Monetary Relief" and shall partially satisfy the monetary judgment set forth in
22 that section.

23 **VIII.**

24 **CUSTOMER LISTS**

25 **IT IS FURTHER ORDERED** that Defendants, directly or through any corporation,
26 partnership, subsidiary, division, trade name, device, or other entity, and their officers, agents,
27 servants, employees, and attorneys, and all persons and entities in active concert or participation

1 with them who receive actual notice of this Order, by personal service or otherwise, are hereby
2 enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name, address,
3 telephone number, credit card number, bank account number, email address, or other identifying
4 information of any person who purchased a Business Venture from any Defendant; *provided* that
5 Defendants may disclose such identifying information to a law enforcement agency, including
6 the Federal Trade Commission, or as required by any law, regulation, or court order.

7 **IX.**

8 **COMPLIANCE MONITORING**

9 **IT IS FURTHER ORDERED** that, for the purpose of monitoring and investigating
10 compliance with any provision of this Order:

- 11 A. Within ten (10) days of receipt of written notice from a representative of the
12 Commission, Defendants and Relief Defendant each shall submit additional
13 written reports, which are true and accurate and sworn to under penalty of
14 perjury; produce documents for inspection and copying; appear for deposition;
15 and provide entry during normal business hours to any business location in such
16 Defendant's possession or direct or indirect control to inspect the business
17 operation;
- 18 B. In addition, the Commission is authorized to use all other lawful means, including
19 but not limited to:
- 20 1. obtaining discovery from any person, without further leave of court, using
21 the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, 45 and 69;
 - 22 2. posing as consumers and suppliers to Defendants, their employees, or any
23 other entity managed or controlled in whole or in part by any Defendant,
24 without the necessity of identification or prior notice; and
- 25 C. Defendants each shall permit representatives of the Commission to interview any
26 employer, consultant, independent contractor, representative, agent,
27 or employee who has agreed to such an interview, relating in any way to any

1 Corporate Defendant or any business entity that any Defendant directly or
2 indirectly controls, or has an ownership interest in, that may affect
3 compliance obligations arising under this Order, including but not limited
4 to: incorporation or other organization; a dissolution, assignment, sale,
5 merger, or other action; the creation or dissolution of a subsidiary, parent,
6 or affiliate that engages in any acts or practices subject to this Order; or a
7 change in the business name or address, at least thirty (30) days prior to
8 such change, *provided* that, with respect to any proposed change in the
9 business entity about which a Defendant learns less than thirty (30) days
10 prior to the date such action is to take place, such Defendant shall notify
11 the Commission as soon as is practicable after obtaining such knowledge.

12 B. One hundred eighty (180) days after the date of entry of this Order and annually
13 thereafter for a period of five (5) years, Defendants each shall provide a written
14 report to the FTC, which is true and accurate and sworn to under penalty of
15 perjury, setting forth in detail the manner and form in which they have complied
16 and are complying with this Order. This report shall include, but not be limited
17 to:

18 1. For each Individual Defendant:

- 19 a. such Defendant's then-current residence address, mailing
20 addresses, and telephone numbers;
- 21 b. such Defendant's then-current employment status (including self-
22 employment), including the name, addresses, and telephone
23 numbers of each business that such Defendant is affiliated with,
24 employed by, or performs services for; a detailed description of the
25 nature of the business; and a detailed description of such
26 Defendant's duties and responsibilities in connection with the
27 business or employment; and

1 c. Any other changes required to be reported under Subsection A of
2 this Section.

3 2. For all Defendants:

4 a. A copy of each acknowledgment of receipt of this Order, obtained
5 pursuant to the Section titled "Distribution of Order;" and

6 b. Any other changes required to be reported under Subsection A of
7 this Section.

8 C. Each Defendant shall notify the Commission of the filing of a bankruptcy petition
9 by such Defendant within fifteen (15) days of filing.

10 D. For the purposes of this Order, Defendants shall, unless otherwise directed by the
11 Commission's authorized representatives, send by overnight courier all reports
12 and notifications required by this Order to the Commission, to the following
13 address:

14 Associate Director for Enforcement
15 Federal Trade Commission
16 600 Pennsylvania Avenue, N.W., Room NJ-2122
Washington, D.C. 20580
RE: *FTC v. Network Services Depot, Inc., CV-S-05-0440-LDG-LRL.*

17 *Provided that, in lieu of overnight courier, Defendants may send such reports or*
18 *notifications by first-class mail, but only if Defendants contemporaneously send*
19 *an electronic version of such report or notification to the Commission at:*

20 DEBrief@ftc.gov.

21 E. For purposes of the compliance reporting and monitoring required by this Order,
22 the Commission is authorized to communicate directly with each Defendant and
23 Relief Defendant.

24 **XI.**

25 **RECORD KEEPING PROVISIONS**

26 **IT IS FURTHER ORDERED** that, for a period of eight (8) years from the date of entry
27 of this Order, Defendants, in connection with any business where any Defendant is the majority

1 owner of the business or directly or indirectly manages or controls the business, and their agents,
2 employees, officers, corporations, and those persons in active concert or participation with them
3 who receive actual notice of this Order by personal service or otherwise, are hereby restrained
4 and enjoined from failing to create and retain the following records:

- 5 A. Accounting records that reflect the cost of goods or services sold, revenues
6 generated, and the disbursement of such revenues;
- 7 B. Personnel records accurately reflecting: the name, address, and telephone number
8 of each person employed in any capacity by such business, including as an
9 independent contractor; that person's job title or position; the date upon which the
10 person commenced work; and the date and reason for the person's termination, if
11 applicable;
- 12 C. Customer files containing the names, addresses, phone numbers, dollar amounts
13 paid, quantity of items or services purchased, and description of items or services
14 purchased, to the extent such information is obtained in the ordinary course of
15 business;
- 16 D. Complaints and refund requests (whether received directly, indirectly, or through
17 any third party) and any responses to those complaints or requests;
- 18 E. Copies of all sales scripts, training materials, advertisements, or other marketing
19 materials; and
- 20 F. All records and documents necessary to demonstrate full compliance with each
21 provision of this Order, including but not limited to, copies of acknowledgments
22 of receipt of this Order required by the Sections titled "Distribution of Order" and
23 "Acknowledgment of Receipt of Order" and all reports submitted to the FTC
24 pursuant to the Section titled "Compliance Reporting."

25 **XII.**

26 **DISTRIBUTION OF ORDER**

27 **IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of entry

1 of this Order, Defendants shall deliver copies of the Order as directed below:

2 A. **Corporate Defendant:** Each Corporate Defendant must deliver a copy of this
3 Order to (1) all of its principals, officers, directors, and managers; (2) all of its
4 employees, agents, and representatives who engage in conduct related to the
5 subject matter of the Order; and (3) any business entity resulting from any change
6 in structure set forth in Subsection A.2 of the Section titled "Compliance
7 Reporting." For current personnel, delivery shall be within five (5) days of
8 service of this Order upon such Defendant. For new personnel, delivery shall
9 occur prior to them assuming their responsibilities. For any business entity
10 resulting from any change in structure set forth in Subsection A.2 of the Section
11 titled "Compliance Reporting," delivery shall be at least ten (10) days prior to the
12 change in structure.

13 B. **Individual Defendant as Control Person:** For any business that an Individual
14 Defendant controls, directly or indirectly, or in which such Defendant has a
15 majority ownership interest, such Defendant must deliver a copy of this Order to
16 (1) all principals, officers, directors, and managers of that business; (2) all
17 employees, agents, and representatives of that business who engage in conduct
18 related to the subject matter of the Order; and (3) any business entity resulting
19 from any change in structure set forth in Subsection A.2 of the Section titled
20 "Compliance Reporting." For current personnel, delivery shall be within five (5)
21 days of service of this Order upon such Defendant. For new personnel, delivery
22 shall occur prior to them assuming their responsibilities. For any business entity
23 resulting from any change in structure set forth in Subsection A.2 of the Section
24 titled "Compliance Reporting," delivery shall be at least ten (10) days prior to the
25 change in structure.

26 C. **Individual Defendant as employee or non-control person:** For any business
27 where an Individual Defendant is not a controlling person of a business but

1 otherwise engages in conduct related to the subject matter of this Order, such
2 Defendant must deliver a copy of this Order to all principals and managers of
3 such business before engaging in such conduct.

4 D. Defendants must secure a signed and dated statement acknowledging receipt of
5 the Order, within thirty (30) days of delivery, from all persons receiving a copy of
6 the Order pursuant to this Section.

7 **XIII.**

8 **ACKNOWLEDGMENT OF RECEIPT OF ORDER**

9 **IT IS FURTHER ORDERED** that each Defendant and Relief Defendant, within five (5)
10 business days of receipt of this Order as entered by the Court, must submit to the Commission a
11 truthful sworn statement acknowledging receipt of this Order.

12 **XIV.**

13 **SEVERABILITY**

14 **IT IS FURTHER ORDERED** that the provisions of this Order are separate and
15 severable from one another. If any provision is stayed or determined to be invalid, the remaining
16 provisions shall remain in full force and effect.


17 **XV.**

18 **RETENTION OF JURISDICTION**

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

21
22 **IT IS SO ORDERED**, this 5 day of MAR, 2009

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24
25 Dated: 5 MAR 2009

26 
LLOYD D. GEORGE
U.S. DISTRICT COURT JUDGE

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Respectfully submitted,

/s/ Lisa D. Rosenthal

DATED: 2/27/09

LISA D. ROSENTHAL
KERRY O'BRIEN
Federal Trade Commission
901 Market Street, Suite 570
San Francisco, CA 94103
Phone (415) 848-5100/ Fax (415) 848-5184
Email: lrosenthal@ftc.gov

DECLARATION OF LAURA SCHNEIDER

I, Laura Schneider, hereby state as follows:

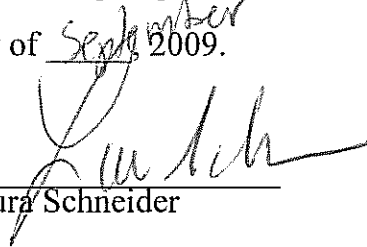
1. I am employed as a staff attorney by the Federal Trade Commission (FTC) in the Bureau of Consumer Protection, Division of Enforcement. My business address is 601 New Jersey Avenue, Washington, DC 20580. I have personal knowledge of the facts stated herein, and if called to testify, I could and would competently testify to the facts set forth below.

2. I serve as counsel for the Federal Trade Commission in *FTC v. Network Services Depot, et al.*, (U.S. District Court, D. Nev.), CV-S-05-0440-LDG-LRL.

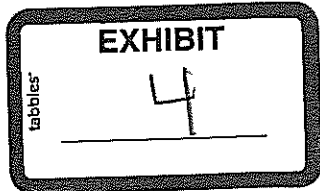
3. On or about July 1, 2009, I sent a letter via email to Jeffrey S. Benice and Jeffrey S. Benice, A Professional Law Corporation, demanding compliance with the turnover provision in the Court's March 5, 2009 Final Judgment and Order for Permanent Injunction and Other Equitable Relief ("Final Order"). The letter further informed Mr. Benice that I planned to recommend that the Commission seek a contempt order if he did not comply with the Final Order. Attached hereto as Exhibit 1 is a true and correct copy of that email and attached letter.

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

Executed at Washington, DC, this 14th day of September 2009.



Laura Schneider



Schneider, Laura

From: Schneider, Laura
Sent: Wednesday, July 01, 2009 5:15 PM
To: 'jsb@jeffreybenice.com'
Cc: 'Cindi@JeffreyBenice.com'; 'Sebastian Ragazzo'
Subject: Network Services Depot
Attachments: 7-1-09 letter.pdf

Please see attached letter.

Laura Schneider
Federal Trade Commission
601 New Jersey Avenue, NW
Washington, DC 20580
(202) 326-2604



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Bureau of Consumer Protection

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Laura Schneider
Senior Attorney

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Direct Dial
202-326-2604

July 1, 2009

Jeffrey S. Benice
Jeffrey S. Benice, a Professional Law Corporation
Central Tower, 650 Town Center Drive, 13th Floor
Costa Mesa, CA 92626
via email - jsb@jeffreyBenice.com

Re: *FTC v. Network Services Depot, et al., CV-S-05-0440-LDG-LRL (D.NV)*

Dear Mr. Benice:

I am writing in regards to your obligations under the Final Judgment and Order for Permanent Injunction and Other Equitable Relief ("Final Order") entered on March 5, 2009 in the above-referenced case. Section V.E. requires you to turn over \$238,300 to the Commission ("turnover provision"). It is my understanding from your testimony in the deposition taken on June 23, 2009, that you have not and do not plan to comply with that section of the Final Order. I am writing to let you know that unless you comply with the turnover provision by turning over \$238,300 to the Commission, we plan to recommend that the Commission seek an order holding you in contempt.

I understand that you have filed an appeal of the Final Order. During the deposition, you stated that you may file an application for a stay of the turnover provision. Please advise us whether you plan to file an application for a stay. If you plan to file an application and do so no later than Friday, July 17, 2009, we will hold off for now recommending that the Commission seek an order holding you in contempt. Otherwise, we will soon forward a recommendation that the Commission file a contempt action.

Please do not hesitate to contact me at 202-326-2604 (Lschneider@ftc.gov) to discuss this matter further.

Sincerely,


Laura Schneider