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**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

**CAPITOL NETWORK DISTANCE
LEARNING PROGRAMS, LLC, *et al.*,**

Defendants.

CV-16-00350-PHX-DJH

**STIPULATED FINAL ORDER OF
PERMANENT INJUNCTION AND
SETTLEMENT OF CLAIMS AS TO
DEFENDANTS VERITAS SALES,
INC., ADAM POLLICINO, AND
ANTHONY CLAVIEN**

Plaintiff, Federal Trade Commission (“FTC”), commenced this civil action on February 8, 2016, by filing its Complaint (Doc. 1) seeking a permanent injunction and other equitable relief pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b). On February 17, 2016, the Court entered a Stipulated Temporary Restraining Order against Defendants (Doc. 25). On March 11, 2016, the Court entered a Stipulated Preliminary Injunction against Defendants (Doc. 35). Pursuant to Federal Rule of Evidence 408 and the protections afforded therein, the FTC and Defendants Veritas Sales, Inc., Adam Pollicino, and Anthony Clavien have stipulated and agreed to entry of this Final Order for Permanent Injunction and Settlement of Claims (“Order”) to resolve all matters in dispute in this action between them.

1 evidences or purports to evidence that a consumer has completed and shown
2 proficiency in a curriculum recognized as necessary to earn the indicated degree,
3 diploma, certification, certificate, or other document, whether denominated as a
4 degree, diploma, certification, certificate, or other name, whether denoted as a real
or novelty item.

5 B. **“Customer”** means any person who has paid, or may be required to pay, for
6 products, services, plans, or programs offered for sale or sold by any other person.

7 C. **“Defendants”** means Capitol Network Distance Learning Programs, LLC, Capital
8 Network Digital Licensing Programs, LLC, Veritas Sales, Inc., Nicholas Pollicino,
9 Anthony Clavien, and Adam Pollicino, individually, collectively, or in any
combination.

10 D. **“Person”** means a natural person, organization, or other legal entity, including a
11 corporation, partnership, proprietorship, association, cooperative, or any other
12 group or combination acting as an entity.

13 E. **“Settling Defendants”** means the Individual Settling Defendants and the Corporate
14 Settling Defendant, individually, collectively, or in any combination. **“Corporate**
15 **Settling Defendant”** means Veritas Sales, Inc. and its successors and assigns.

16 **“Individual Settling Defendants”** means Anthony J. Clavien and Adam F.
17 Pollicino, and any other name by which they may be known.

18 ORDER

19 BAN ON ACADEMIC DEGREE OR CERTIFICATION PROGRAMS

20 I. **IT IS THEREFORE ORDERED** that the Settling Defendants, whether acting
21 directly or through any other person, are permanently restrained and enjoined from:

22 A. Advertising, marketing, promoting, or offering for sale any academic degree or
23 certification program; and

24 B. Assisting others engaged in the advertising, marketing, promoting, or offering
25 for sale of any academic degree or certification program.

PROHIBITION AGAINST MISREPRESENTATIONS

1 **II. IT IS FURTHER ORDERED** that the Settling Defendants, their officers, agents,
2 and employees, and all other persons in active concert or participation with any of
3 them, who receive actual notice of this Order, whether acting directly or indirectly,
4 in connection with promoting or offering for sale any good or service are
5 permanently restrained and enjoined from misrepresenting or assisting others in
6 misrepresenting, expressly or by implication:

- 7 A. The total costs to purchase, receive, or use, and the quantity of, any good or
8 service;
- 9 B. Any material restriction, limitation, or condition to purchase, receive, or use
10 any good or service;
- 11 C. Any material aspect of the performance, efficacy, nature, or central
12 characteristics of any good or service;
- 13 D. The nature, expertise, position, or job title of any person who provides any
14 good or service;
- 15 E. The person who will provide any good or service;
- 16 F. Any material aspect of the nature or terms of any refund, cancellation,
17 exchange, or repurchase policy, including, but not limited to, the likelihood
18 of a consumer obtaining a full or partial refund, or the circumstances in
19 which the full or partial refund will be granted to the consumer;
- 20 G. That any person providing a testimonial has purchased, received, or used the
21 good or service;
- 22 H. That the experience represented in a testimonial of a good or service
23 represents the person's actual experience resulting from the use of the good
24 or service under the circumstances depicted in the advertisement;

- 1 That the experience represented in a testimonial of a good or service is
2 representative of what consumers will generally achieve with the good or
3 service;
4 J. That any person is affiliated with, endorsed or approved by, accredited by, or
5 otherwise connected to any other person; government entity; public,
6 non-profit, or other non-commercial program; or any other program; or
7 K. Any other fact material to a consumer's decision to purchase any good or
8 service.

MONETARY JUDGMENT AND PARTIAL SUSPENSION

III. IT IS FURTHER ORDERED that:

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10 A. Judgment in the amount of ONE MILLION DOLLARS (\$1,000,000) is entered in
11 favor of the FTC against the Settling Defendants, jointly and severally, as equitable
12 monetary relief.
13 B. In partial satisfaction of the judgment against the Settling Defendants:
14 1. Bank of America shall, within ten (10) business days of receipt of a copy
15 of this Order, make a one-time transfer to the FTC or its designated agent
16 of all funds, if any, in (a) account number xxxx1322 in the name of Veritas
17 Sales; Inc.; and (b) account number xxxx3862 in the name of Veritas
18 Sales, Inc. Upon such transfers, this Order shall impose no further
19 restrictions on such accounts.
20 2. Wells Fargo Bank shall, within ten (10) business days of receipt of a copy
21 of this Order, transfer to the FTC or its designated agent the excess, if any,
22 of the balance in account number xxxx0348 in the name of Veritas Sales,
23 Inc. over \$5,000. Upon such transfer, this Order shall impose no further
24 restrictions on such account.
25 3. Wells Fargo Bank shall, within ten (10) business days of receipt of a copy

1 of this Order, make a one-time transfer to the FTC or its designated agent
2 of all funds, if any, in: (a) account number xxxx0355 in the name of
3 Veritas Sales, Inc.; (b) account number xxxx1767 in the name of Veritas
4 Sales, Inc.; (c) account number xxxx1809 in the name of Veritas Sales,
5 Inc.; (d) account number xxxx9328 in the name of Veritas Sales, Inc.; (e)
6 account number xxxx0470 in the name of AFP Inc.; (f) account number
7 xxxx0504 in the name of AFP Inc.; (g) account number xxxx1320 in the
8 name of Valais Consulting, Inc.; (h) account number xxxx3631 in the
9 name of Valais Consulting, Inc.; (i) account number xxxx6126 in the name
10 of Adam Pollicino; (j) account number xxxx9541 in the name of Adam
11 Pollicino; and (k) account number xxxx9207 in the name of Anthony
12 Clavien. Upon such transfers, this Order shall impose no further
13 restrictions on such accounts.

14 4. JP Morgan Chase Bank shall, within ten (10) business days of receipt of a
15 copy of this Order, make a one-time transfer to the FTC or its designated
16 agent of all funds, if any, in: (a) account number xxxx2251 in the name of
17 AFP, Inc.; (b) account number xxxx8626 in the name of AFP, Inc.; and (c)
18 account number xxxx7655 in the name of Anthony Clavien. Upon such
19 transfers, this Order shall impose no further restrictions on such accounts.

20 5. Deutsches Bank shall, within ten (10) business days of receipt of a copy of
21 this Order, make a one-time transfer to the FTC or its designated agent of
22 all funds, if any, in account number xxxx5790 in the name of Anthony
23 Clavien. Upon such transfer, this Order shall impose no further
24 restrictions on such account.;

25 C. Upon completion of the asset transfers set forth in Section III.B of this Order, the
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1 remainder of the judgment as to the Settling Defendants is suspended, subject to the
2 Subsections below.

3 D. The asset freeze is modified to permit the transfers identified in this Section. Upon
4 completion of those transfers, any asset freeze created by the Stipulated Preliminary
5 Injunction (Doc. 35) is dissolved.

6 E. The FTC's agreement to the suspension of part of the judgment is expressly
7 premised upon the truthfulness, accuracy, and completeness of the Settling
8 Defendants' sworn financial statements and related documents (collectively,
9 "financial representations") submitted to the FTC, namely: (1) the Financial
10 Statement of Corporate Defendant Veritas Sales, Inc. signed on February 29, 2016
11 by Adam Pollicino, including the attachments; (2) the Financial Statement of
12 Individual Defendant Anthony Clavien signed on February 29, 2016, including the
13 attachments; and (3) the Financial Statement of Individual Defendant Adam
14 Pollicino signed on February 29, 2016, including the attachments.

15 F. The suspension of the judgment will be lifted as to a Settling Defendant if, upon
16 motion by the FTC, the Court finds that such Settling Defendant failed to disclose
17 any material asset, materially misstated the value of any asset, or made any other
18 material misstatement or omission in the financial representations identified above.

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

24 H. The Settling Defendants relinquish dominion and all legal and equitable right, title,
25 and interest in all assets transferred pursuant to this Order and may not seek the
26 return of any assets.

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

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

8 K. The Settling Defendants acknowledge that their Taxpayer Identification Numbers
9 (Social Security Numbers or Employer Identification Numbers), which the Settling
10 Defendants previously submitted to the FTC, may be used for collecting and
11 reporting on any delinquent amount arising out of this Order, in accordance with 31
12 U.S.C. §7701.

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

24 **CUSTOMER INFORMATION**

25 **IV. IT IS FURTHER ORDERED** that the Settling Defendants, their officers, agents,
26 and employees, and all other persons in active concert or participation with any of
27 them, who receive actual notice of this Order, whether acting directly or indirectly,
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are permanently restrained and enjoined from directly or indirectly:

- 1 A. Disclosing, using, or benefitting from customer information, including the name,
2 address, telephone number, email address, social security number, other identifying
3 information, or any data that enables access to a customer's account (including a
4 credit card, bank account, or other financial account), that any Defendant obtained
5 prior to entry of this Order in connection with the marketing and sale of any
6 academic degree or certification program; and
7 B. Failing to destroy such customer information in all forms in their possession,
8 custody, or control within 30 days after receipt of written direction to do so from a
9 representative of the FTC.

10 Provided, however, that customer information need not be disposed of, and may be
11 disclosed, to the extent requested by a government agency or required by law,
12 regulation, or court order.

ORDER ACKNOWLEDGMENTS

13 **V. IT IS FURTHER ORDERED** that the Settling Defendants obtain
14 acknowledgments of receipt of this Order:

- 15 A. Each Settling Defendant, within 7 days of entry of this Order, must submit to
16 the FTC an acknowledgment of receipt of this Order sworn under penalty of
17 perjury.
18 B. For 5 years after entry of this Order, each Individual Settling Defendant for
19 any business that such Individual Settling Defendant, individually or
20 collectively with any other Defendants, is the majority owner or controls
21 directly or indirectly, and the Corporate Settling Defendant, must deliver a
22 copy of this Order to: (1) all principals, officers, directors, and LLC
23 managers and members; (2) all employees, agents, and representatives who
24 participate in conduct related to the subject matter of the Order; and (3) any
25 business entity resulting from any change in structure as set forth in the

Section titled Compliance Reporting. Delivery must occur within 7 days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

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

COMPLIANCE REPORTING

VI. IT IS FURTHER ORDERED that the Settling Defendants make timely submissions to the FTC:

- A. One year after entry of this Order, each Settling Defendant must submit a compliance report, sworn under penalty of perjury:

1. Each Settling Defendant must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the FTC may use to communicate with that Settling Defendant; (b) identify all of that Settling Defendant’s businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant (which each Individual Settling Defendant must describe if he knows or should know due to his own involvement); (d) describe in detail whether and how that Settling Defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the FTC.
2. Additionally, each Individual Settling Defendant must: (a) identify all telephone numbers and all physical, postal, email and Internet addresses, including all residences; (b) identify all business activities, including any

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1 business for which such Individual Settling Defendant performs services
2 whether as an employee or otherwise and any entity in which such
3 Individual Settling Defendant has any ownership interest; and (c)
4 describe in detail such Individual Settling Defendant's involvement in
5 each such business, including title, role, responsibilities, participation,
6 authority, control, and any ownership.

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

- 9 1. Each Settling Defendant must report any change in: (a) any
10 designated point of contact; or (b) the structure of the Corporate
11 Settling Defendant or any entity that such Settling Defendant has any
12 ownership interest in or controls directly or indirectly that may affect
13 compliance obligations arising under this Order, including: creation,
14 merger, sale, or dissolution of the entity or any subsidiary, parent, or
15 affiliate that engages in any acts or practices subject to this Order.
- 16 2. Additionally, each Individual Settling Defendant must report any
17 change in: (a) name, including aliases or fictitious name, or
18 residence address; or (b) title or role in any business activity,
19 including any business for which such Individual Settling Defendant
20 performs services whether as an employee or otherwise and any entity
21 in which such Individual Settling Defendant has any ownership
22 interest, and identify the name, physical address, and any Internet
23 address of the business or entity.

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

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

7 E. Unless otherwise directed by an FTC representative in writing, all
8 submissions to the FTC pursuant to this Order must be emailed to
9 DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service)
10 to: Associate Director for Enforcement, Bureau of Consumer Protection,
11 Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington,
12 DC 20580. The subject line must begin: FTC v. Capitol Network
13 Distance Learning Programs, X160026.

14 **RECORDKEEPING**

15 **VII. IT IS FURTHER ORDERED** that the Settling Defendants must create certain
16 records for 10 years after entry of the Order, and retain each such record for 5 years.
17 Specifically, the Corporate Settling Defendant and each Individual Settling
18 Defendant for any business that such Individual Settling Defendant, individually or
19 collectively with any other Defendants, is a majority owner or controls directly or
20 indirectly, must create and retain the following records:

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

COMPLIANCE MONITORING

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

- A. Within 14 days of receipt of a written request from a representative of the FTC, each Settling Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The FTC is also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69; provided that a Settling Defendant, after attempting to resolve a dispute without court action and for good cause shown, may file a motion with this Court seeking an order for one or more of the protections set forth in Rule 26(c).
- B. For matters concerning this Order, the FTC is authorized to communicate directly with each Settling Defendant. The Settling Defendants must permit representatives of the FTC to interview any employee or other person affiliated with any Settling Defendant who has agreed to such an interview. The person interviewed may have counsel present.
- C. The FTC may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to

the Settling Defendants or any individual or entity affiliated with the Settling Defendants, without the necessity of identification or prior notice. Nothing in this Order limits the FTC’s lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

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

ENTRY OF JUDGMENT

IX. IT IS FURTHER ORDERED that there is no just reason for delay of entry of this judgment, and that, pursuant to Federal Rule of Civil Procedure 54(b), the Clerk immediately shall enter this Order as a final judgment as to defendants Veritas Sales, Inc., Anthony Clavien, and Adam Pollicino.

RETENTION OF JURISDICTION

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

Dated this 10th day of February, 2017.


Honorable Diane J. Humetewa
United States District Judge

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