UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FEDERAL TRADE COMMISSION, Plaintiff, v. DIRECT FINANCIAL MANAGEMENT INC., Ontario Corporation No. 2130181, an Ontario, Canada, corporation, 2194673 ONTARIO INC., an Ontario, Canada, corporation, d/b/a THE ELITE FINANCIAL GROUP, F&F PAYMENT PROCESSING INC., a New York corporation, BAJADA MANAGEMENT GROUP INC., a New York corporation, DAVID D. RICHARDS, individually and as an officer and/or director of DIRECT FINANCIAL MANAGEMENT INC., BAIRD B. FISHER, individually and as an officer and/or director of F&F PAYMENT PROCESSING INC. and BAJADA MANAGEMENT GROUP INC., JACQUELINE M. FISHER, individually, and JOSEPH B. FOLEY, individually, Defendants.	**Case No. 10 C 7194** **Judge Joan H. Lefkow** **Magistrate Judge Maria Valdez** **STIPULATED FINAL JUDGMENT AND ORDER FOR PERMANENT INJUNCTION AS TO DEFENDANTS F&F PAYMENT PROCESSING INC., BAJADA MANAGEMENT GROUP INC., BAIRD B. FISHER, AND JACQUELINE M. FISHER**

Plaintiff Federal Trade Commission ("FTC" or "Commission") commenced this action by filing its Complaint for Permanent Injunction and Other Equitable Relief ("Complaint"), pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act ("Telemarketing Act"), 15 U.S.C. §§ 6101-6108, to secure temporary, preliminary, and permanent injunctive relief, rescission or reformation of contracts, restitution, disgorgement of ill-gotten gains, and other equitable relief for Defendants' acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and in violation of the FTC's Trade Regulation Rule entitled "Telemarketing Sales Rule" ("TSR"), 16 C.F.R. Part 310.

Defendants F&F Payment Processing Inc., Bajada Management Group Inc., Baird B. Fisher, and Jacqueline M. Fisher ("Stipulating Defendants"), having been represented by counsel, and acting by and through said counsel, have consented to the entry of this Stipulated Final Judgment and Order for Permanent Injunction as to Defendants F&F Payment Processing Inc., Bajada Management Group Inc., Baird B. Fisher, and Jacqueline M. Fisher (the "Order") without a trial or adjudication of any issue of law or fact herein.

NOW THEREFORE, the Plaintiff and Stipulating Defendants, having requested the Court to enter this Order, and the Court having considered the Order reached between the parties, **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** as follows:

FINDINGS

1. This is an action by the Commission instituted under Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, the Telemarketing Act, 15 U.S.C. §§ 6101-6108, and the TSR, 16 C.F.R. Part 310. Pursuant to these statutes and regulations, the Commission has the authority to seek the relief contained herein.

2. The Commission's Complaint states a claim upon which relief may be granted under Sections 5(a), 13(b), and 19 of the FTC Act, 15 U.S.C. §§ 45(a), 53(b), and 57b, the Telemarketing Act, 15 U.S.C. §§ 6101-6108, and the TSR, 16 C.F.R. Part 310.

3. This Court has jurisdiction over the subject matter of this case and personal jurisdiction over the Stipulating Defendants.

4. Venue in the United States District Court for the Northern District of Illinois is proper pursuant to 15 U.S.C. § 53(b) and 28 U.S.C. § 1391(b), (c), and (d).

5. The alleged activities of Stipulating Defendants are "in or affecting commerce" as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

6. Stipulating Defendants, without admitting the allegations set forth in the Commission's Complaint, except for jurisdictional facts, and without any admission or finding of liability thereunder, agree to entry of this Order and the findings that it contains.

7. Stipulating Defendants waive: (a) all rights to seek judicial review or otherwise challenge or contest the validity of this Order; (b) any claim that they may have against the Commission, its employees, representatives, or agents; (c) all claims under the Equal Access to Justice Act, 28 U.S.C. § 2412, *as amended by* Pub. L. 104-121, 110 Stat. 847, 863-64 (1996); and (d) any rights to attorney's fees that may arise under said provision of law. The Commission and Stipulating Defendants shall each bear their own costs and attorney's fees incurred in this action.

8. This Order is in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law.

9. Entry of this Order is in the public interest.

DEFINITIONS

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

1. **"Asset" or "Assets"** means any legal or equitable interest in, right to, or claim to, any real or personal property, including, but not limited to, "goods," "instruments," "equipment," "fixtures," "general intangibles," "inventory," "checks," or "notes" (as these terms are defined in the Uniform Commercial Code), lines of credit, chattels, leaseholds, contracts, mail or other deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables, funds, and all cash, wherever located.

2. **"Assisting others"** includes, but is not limited to: (a) performing customer service functions, including, but not limited to, receiving or responding to consumer complaints; (b) formulating or providing, or arranging for the formulation or provision of, any sales script or other marketing material; (c) providing names of, or assisting in the generation of, potential customers; (d) performing or providing marketing or billing services of any kind; (e) acting as an officer or director of a business entity; or (f) providing telemarketing services.

3. **"Caller identification service"** means a service that allows a telephone subscriber to have the telephone number, and, where available, name of the calling party transmitted contemporaneously with the telephone call, and displayed on a device in or connected to the subscriber's telephone.

4. **"Stipulating Defendants"** means F&F Payment Processing Inc., Bajada Management Group Inc., Baird B. Fisher, and Jacqueline M. Fisher, and each of them, by whatever other names each may be known, and any subsidiaries, successors, assigns, and any fictitious business entities or business names created or used by these entities, or any of them.

5. **"Receivership Defendants"** means F&F Payment Processing Inc. and Bajada Management Group Inc., and each of them, by whatever other names each may be known, and any subsidiaries, successors, assigns, and any fictitious business entities or business names created or used by these entities, or any of them.

6. **"Individual Defendants"** means David D. Richards, Baird B. Fisher, Jacqueline M. Fisher, and Joseph B. Foley, and by whatever other names each may be known.

7. **"Corporate Defendants"** means Direct Financial Management Inc., also known as Ontario Corporation No. 2130181; 2194673 Ontario Inc., also doing business as The Elite Financial Group; F&F Payment Processing Inc.; and Bajada Management Group Inc., and each of them, by whatever other names each may be known, and any subsidiaries, successors, assigns, and any fictitious business entities or business names created or used by these entities, or any of them.

8. **"Defendants"** means all of the Individual Defendants and the Corporate Defendants, individually, collectively, or in any combination.

9. **"Debt Relief Service"** means any product or service represented, directly or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of the debt between a consumer and one or more unsecured creditors or debt collectors, including, but not limited to, a reduction in the balance, interest rate, or fees owed by a consumer to an unsecured creditor or debt collector.

10 **"Document" or "Documents"** means any materials listed in Federal Rule of Civil Procedure 34(a) and includes writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which information can be

obtained and translated, if necessary, into reasonably usable form through detection devices. A draft or nonidentical copy is a separate Document within the meaning of the term.

11. **"Established business relationship"** means a relationship between the seller and a person based on: (a) the person's purchase, rental, or lease of the seller's goods or services or a financial transaction between the person and seller, within the eighteen (18) months immediately preceding the date of the telemarketing call; or (b) the person's inquiry or application regarding a product or service offered by the seller, within the three (3) months immediately preceding the date of a telemarketing call.

12. **"Financial Institution"** means any bank, savings and loan institution, credit union, or any financial depository of any kind, including, but not limited to, any brokerage house, trustee, broker-dealer, escrow agent, title company, commodity trading company, or precious metal dealer.

13. **"Financial related product or service"** means any product or service represented, directly or by implication, to: (a) provide any consumer, arrange for any consumer to receive, or assist any consumer in receiving, credit, debit, or stored value cards; (b) improve, or arrange to improve, any consumer's credit record, credit history, or credit rating; (c) provide advice or assistance to any consumer with regard to any activity or service the purpose of which is to improve a consumer's credit record, credit history, or credit rating; (d) provide any consumer, arrange for any consumer to receive, or assist any consumer in receiving, a loan or other extension of credit; or (e) provide any consumer, arrange for any consumer to receive, or assist any consumer in receiving any service represented, expressly or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of the debt between a consumer and one or more secured creditors, servicers, or debt collectors.

14. **"Material"** means likely to affect a person's choice of, or conduct regarding, goods or services.

15. "**National Do Not Call Registry**" means the National Do Not Call Registry, which is the "do-not-call" registry maintained by the Federal Trade Commission pursuant to 16 C.F.R. § 310.4(b)(l)(iii)(B).

16. "**Outbound telephone call**" means a telephone call initiated by a telemarketer to induce the purchase of goods or services or to solicit a charitable contribution.

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

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

19. **"Representatives"** means Stipulating Defendants' officers, agents, servants, and employees, and other persons in active concert or participation with any of them who receive actual notice of this Order by personal service or otherwise.

20. **"Seller"** means any person who, in connection with a telemarketing transaction, provides, offers to provide, or arranges for others to provide goods or services to the customer in exchange for consideration, whether or not such person is under the jurisdiction of the Federal Trade Commission.

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

22. "**Telemarketing**" means a plan, program, or campaign which is conducted to induce the purchase of goods or services or a charitable contribution, by use of one or more telephones and which involves more than one interstate telephone call. The term does not

include the solicitation of sales through the mailing of a catalog which: contains a written description or illustration of the goods or services offered for sale; includes the business address of the seller; includes multiple pages of written material or illustrations; and has been issued not less frequently than once a year, when the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls takes orders only without further solicitation. For purposes of the previous sentence, the term "further solicitation" does not include providing the customer with information about, or attempting to sell, any other item included in the same catalog which prompted the customer's call or in a substantially similar catalog.

ORDER

I. PERMANENT BAN ON DELIVERING PRERECORDED MESSAGES

IT IS THEREFORE ORDERED that Stipulating Defendants, whether acting directly or through any person, business entity, trust, corporation, partnership, limited liability company, subsidiary, division, or other device, or any of them, are hereby permanently restrained and enjoined from initiating outbound telephone calls delivering prerecorded messages.

II. PERMANENT BAN ON MARKETING DEBT RELIEF SERVICES

IT IS FURTHER ORDERED that Stipulating Defendants, whether acting directly or through any person, business entity, trust, corporation, partnership, limited liability company, subsidiary, division, or other device, or any of them, are hereby permanently restrained and enjoined from engaging in, participating in, or assisting others in the marketing, telemarketing, advertising, promotion, offering for sale, or sale of Debt Relief Services.

III. PROHIBITED PRACTICES RELATING TO FINANCIAL RELATED PRODUCTS OR SERVICES

IT IS FURTHER ORDERED that Stipulating Defendants and their Representatives, whether acting directly or through any person, business entity, trust, corporation, partnership, limited liability company, subsidiary, division, or other device, or any of them, in connection with the advertising, marketing, promotion, offering for sale or sale of any financial related product or service, are hereby permanently restrained and enjoined from misrepresenting, or assisting others in misrepresenting, expressly or by implication, any material fact, including, but not limited to:

A. Any person's ability to improve or otherwise affect a consumer's credit record, credit history, or credit rating or ability to obtain credit;

B. That any person can improve substantially any consumer's credit record, credit history, or credit rating by permanently removing negative information from the consumer's credit record, credit history, or credit rating, even where such information is accurate and not obsolete;

C. That any person can obtain a modification of any loan or mortgage or postpone or cancel the foreclosure of any property by renegotiating, settling, or in any other way altering the terms of payment or other terms of the debt between a consumer and one or more secured creditors, servicers, or debt collectors; or

D. That a consumer will receive legal representation.

IV. PROHIBITED PRACTICES RELATING TO ANY GOODS OR SERVICES

IT IS FURTHER ORDERED that Stipulating Defendants and their Representatives, whether acting directly or through any person, business entity, trust, corporation, partnership,

limited liability company, subsidiary, division, or other device, or any of them, in connection with the advertising, marketing, promotion, offering for sale or sale of any good, service, plan, or program, are hereby permanently restrained and enjoined from:

A. Misrepresenting, or assisting others in misrepresenting, expressly or by implication, any material fact, including, but not limited to:

1. Any material aspect of the nature or terms of any refund, cancellation, exchange, or repurchase policy, including, but not limited to, the likelihood of a consumer obtaining a full or partial refund, or the circumstances in which a full or partial refund will be granted to the consumer;

2. That any person is affiliated with, endorsed or approved by, or otherwise connected to any other person; government entity; public, non-profit, or other non-commercial program; or any other program;

3. The total costs to purchase, receive, or use, or the quantity of, the good or service;

4. Any material restriction, limitation, or condition on purchasing, receiving, or using the good or service; and

5. Any material aspect of the performance, efficacy, nature, or characteristics of the good or service; and

B. Engaging in, causing other persons to engage in, or assisting other persons to engage in, violations of the TSR, including, but not limited to:

1. Misrepresenting, expressly or by implication, any material fact, including, but not limited to:

a. Any material aspect of the performance, efficacy, nature, or central characteristics of the good or service; or

b. Any material aspect of the nature or terms of any refund, cancellation, exchange, or repurchase policy for the good or service;

2. Initiating any outbound telephone call to any person at a telephone number on the National Do Not Call Registry unless the seller proves that:

a. The seller has obtained the express agreement, in writing, of such person to place calls to that person. Such written agreement shall clearly evidence such person's authorization that calls made by or on behalf of a specific party may be placed to that person, and shall include the telephone number to which the calls may be placed and the signature of that person; or

b. The seller has an established business relationship with such person and that person has not previously stated that he or she does not wish to receive outbound telephone calls made by or on behalf of the seller,

3. Initiating any outbound telephone call to a person when that person has previously stated that he or she does not wish to receive outbound telephone calls made by or on behalf of either a seller whose goods or services are being offered, or a charitable organization for which a charitable contribution is being solicited;

4. Abandoning, or causing others to abandon, any outbound telephone call to a person by failing to connect the call to a live operator within two seconds of the person's completed greeting, unless Stipulating Defendants or their Representatives prove that the following four conditions are met:

a. Stipulating Defendants and their Representatives employ technology that ensures abandonment of no more than three percent of all calls answered by a person, measured over the duration of a single calling campaign, if less than thirty days, or separately over each successive 30-day period or portion thereof that the campaign continues;

b. Stipulating Defendants and their Representatives, for each telemarketing call placed, allow the telephone to ring for at least fifteen seconds or four rings before disconnecting an unanswered call;

c. Whenever a live operator is not available to speak with the person answering the call within two seconds after the person's completed greeting, Stipulating Defendants or their Representatives promptly play a recorded message that states the name and telephone number of the seller on whose behalf the call was placed; and

d. Stipulating Defendants or their Representatives retain records, in accordance with 16 C.F.R.§ 310.5 (b)-(d), establishing compliance with the preceding three conditions;

5. Failing to transmit or to cause to be transmitted to any caller identification service in use by a recipient of a telemarketing call: (a) the telephone number of the telemarketer making the call, or the telephone number for customer service of the seller on whose behalf the call is made, and, (b) when made available by the telemarketer's carrier, the name of the telemarketer or seller to any caller identification service in use by a recipient of a telemarketing call; and

6. Failing to disclose truthfully, promptly and in a clear and conspicuous manner the identity of the seller, that the purpose of the call is to sell goods or services, and the nature of the goods or services.

Provided, *however*, that if the Commission promulgates any rule that modifies or supersedes the TSR, in whole or part, Stipulating Defendants shall comply fully and completely with all applicable requirements thereof, on and after the effective date of any such rule.

V. MONETARY JUDGMENT

IT IS FURTHER ORDERED that:

A. Judgment is hereby entered in favor of the Commission, and against Stipulating Defendants, jointly and severally, for equitable monetary relief, including, but not limited to, consumer redress, in the amount of Thirteen Million, One Hundred One Thousand, Six Hundred Ninety Five United States dollars ($13,101,695 USD), the total amount of consumer injury caused by the activities alleged in the Commission's Complaint; *provided, however*, that the Judgment for equitable monetary relief shall be suspended upon the satisfaction of the obligations imposed by Subsection B of this Section, and subject to the conditions set forth in Section VI of this Order;

B. Stipulating Defendants shall pay to the Commission the sum of one hundred fifty-nine thousand dollars ($159,000 USD) in equitable monetary relief, including, but not limited to, consumer redress and/or disgorgement, within five (5) days of the date of entry of this Order. Payment shall be made to the Commission by wire transfer in accordance with directions provided by the Commission, or by certified check or other guaranteed funds payable to and delivered to the Commission;

C. Time is of the essence for the payment specified above. In the event of any default by Stipulating Defendants on any obligation imposed under this Section, including, but not limited to, the failure to timely and completely fulfill their payment obligations:

1. The judgment imposed herein will not be suspended, and the full amount of that Judgment ($13,101,695 USD) shall immediately become due and payable, plus interest from the date of entry of this Order pursuant to 28 U.S.C. § 1961, as amended, less any amounts already paid; and

2. The Commission shall be entitled to exercise immediately any and all rights and remedies against Stipulating Defendants and their assets to collect the full amount of the judgment and interest thereon, less any amounts already paid;

D. All funds paid pursuant to this Order shall be deposited into a fund administered by the Commission or its agent to be used for equitable relief, including, but not limited to, consumer redress, and any attendant expenses for the administration of such equitable relief. Stipulating Defendants shall cooperate fully to assist the Commission in identifying consumers who may be entitled to redress pursuant to this Order. If the Commission determines, in its sole discretion, that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the Complaint. Any funds not used for such equitable relief shall be deposited to the United States Treasury as disgorgement. Stipulating Defendants shall have no right to challenge the Commission's choice of remedies under this Part. Stipulating Defendants shall have no right to contest the manner of distribution chosen by the Commission. This judgment for equitable monetary relief is solely remedial in nature and is not a fine, penalty, punitive assessment, or forfeiture;

E. In accordance with 31 U.S.C. § 7701, as amended, Stipulating Defendants are hereby required, unless they already have done so, to furnish to the Commission their taxpayer

identifying numbers (social security numbers or employer identification numbers), which shall be used for purposes of collecting and reporting on any delinquent amount arising out of Stipulating Defendants' relationship with the government. Stipulating Defendants are further required, unless they already have done so, to provide the Commission with clear, legible and full-size photocopies of all valid driver's licenses that they possess, which will be used for reporting and compliance purposes;

F. Stipulating Defendants relinquish all dominion, control, and title to the funds paid to the fullest extent permitted by law. Stipulating Defendants shall make no claim to or demand for return of the funds, directly or indirectly, through counsel or otherwise.

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

H. Proceedings instituted under this Section are in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including any other proceedings the Commission may initiate to enforce this Order.

VI. RIGHT TO REOPEN

IT IS FURTHER ORDERED that:

A. Plaintiff's agreement to this Order is expressly premised upon the truthfulness, accuracy, and completeness of Stipulating Defendants' financial condition, as represented in the Financial Statements of Individual and Corporate Defendants signed by Baird B. Fisher and Jacqueline M. Fisher on November 22, 2010, which contain material information upon which Plaintiff relied in negotiating and agreeing to the terms of this Order;

B. If, upon motion of the FTC, the Court finds that any Stipulating Defendant failed to disclose any material asset, materially misrepresented the value of any asset, or made any other material misrepresentation in or omission from such Stipulating Defendant's financial statements or supporting documents, the Court will lift the suspension of the judgment against such Stipulating Defendant, in favor of the Commission, and the entire judgment, less any amount previously paid, shall become immediately due and payable as to that Stipulating Defendant. *Provided, however*, that, in all other respects, this Order shall remain in full force and effect, unless otherwise ordered by the Court; and

C. Any proceedings instituted under this Section shall be in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including, but not limited to, contempt proceedings, or any other proceedings that the Commission or the United States might initiate to enforce this Order. For purposes of this Section, Stipulating Defendants waive any right to contest any of the allegations in the Commission's Complaint.

VII. CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Stipulating Defendants and their Representatives are permanently restrained and enjoined from:

A. Disclosing, using, or benefitting from customer information, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), of any person which any Defendant obtained prior to entry of this Order in connection with the marketing of any debt relief service or telemarketing call delivering a prerecorded message; and

B. Failing to dispose of such customer information in all forms in their possession, custody, or control within thirty (30) days after entry of this Order. Disposal shall be by means that protect against unauthorized access to the customer information, such as by burning, pulverizing, or shredding any papers, and by erasing or destroying any electronic media, to ensure that the customer information cannot practicably be read or reconstructed. *Provided, however,* that customer information need not be disposed of, and may be disclosed, to the extent requested by a government agency or required by a law, regulation, or court order.

VIII. PROHIBITION ON COLLECTING ON ACCOUNTS

IT IS FURTHER ORDERED that Stipulating Defendants and their Representatives, whether acting directly, or through any trust, corporation, subsidiary, division, or other device, or any of them, are hereby permanently restrained and enjoined from attempting to collect, collecting, or assigning any right to collect payment from any consumer who purchased or agreed to purchase any Defendant's debt relief service.

IX. DISSOLUTION OF ASSET FREEZE

IT IS FURTHER ORDERED that the freeze on the assets of Stipulating Defendants Baird B. Fisher and Jacqueline M. Fisher shall remain in effect until they have made the payment required by Section V.B. above, *provided, however,* that, with the express written consent of counsel for the Commission, the freeze on assets may be lifted to the extent necessary to make the payment required by Section V.B. Once Stipulating Defendants Baird B. Fisher and Jacqueline M. Fisher have made the payment required by Section V.B., the freeze on the assets of Stipulating Defendants Baird B. Fisher and Jacqueline M. Fisher shall be lifted permanently. A financial institution shall be entitled to rely upon a letter from Plaintiff stating that the freeze on the assets of Stipulating Defendants Baird B. Fisher and/or Jacqueline M. Fisher has been lifted.

With respect to all Defendants other than Stipulating Defendants Baird B. Fisher and Jacqueline M. Fisher, the asset freeze shall remain in full force and effect.

X. RECEIVERSHIP

IT IS FURTHER ORDERED that the appointment of Mark J. Bernet as Receiver over the Receivership Defendants pursuant to the Temporary Restraining Order entered on November 8, 2010, is hereby continued in full force and effect except as modified by this Section. The Receiver shall complete liquidation of all assets of the Receivership Defendants. Upon liquidation of the assets of the Receivership Defendants, the Receiver shall submit his final report and application for fees and expenses relating to the receivership over the Receivership Defendants, and upon approval of the same by the Court, shall pay any remaining funds to the FTC. Upon the Court's approval of the Receiver's final report as to the Receivership

Defendants, and the payment of any remaining funds to the FTC under this Section, the Receivership over the Receivership Defendants shall be terminated.

XI. MONITORING COMPLIANCE OF SALES PERSONNEL

IT IS FURTHER ORDERED that, in connection with any business: (1) where a Stipulating Defendant is the majority owner of the business or directly or indirectly controls the business; and (2) where the business is engaged in, or is assisting others engaged in, the advertising, marketing, promotion, offering for sale, sale, or provision of any product or service, such Stipulating Defendant and that Defendant's Representatives, whether acting directly or through any person, business entity, trust, corporation, partnership, limited liability company, subsidiary, division, or other device, or any of them, are hereby permanently restrained and enjoined from:

A. Failing to take reasonable steps sufficient to monitor and ensure that all employees and independent contractors engaged in sales or other customer service functions comply with Sections I-IV of this Order. These steps shall include adequate monitoring of sales presentations and telephone calls with consumers, and shall also include, at a minimum, the following: (1) listening to the oral representations made by persons engaged in sales or other customer service functions; (2) establishing a procedure for receiving and responding to consumer complaints; and (3) ascertaining the number and nature of consumer complaints regarding transactions in which each employee or independent contractor is involved;

B. Failing promptly to investigate fully any consumer complaint received by any business to which this Section applies; and

C. Failing to take adequate corrective action with respect to any employee or independent contractor whom such Defendant determines is not complying with this Order. This

corrective action may include training, disciplining, and/or terminating such employee or independent contractor.

XII. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of (1) monitoring and investigating compliance with any provision of this Order and (2) investigating the accuracy of any Stipulating Defendant's financial statements upon which the Commission's agreement to this Order is expressly premised:

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

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

1. obtaining discovery from any person, without further leave of court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, 45 and 69;

2. having its representatives pose as consumers and suppliers to Stipulating Defendants, their employees, or any other entity managed or controlled in whole or in part by any Stipulating Defendant, without the necessity of identification or prior notice; and

C. Stipulating Defendants each shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, agent, or employee

who has agreed to such an interview, relating in any way to any conduct subject to this Order. The person interviewed may have counsel present.

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

XIII. COMPLIANCE REPORTING

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

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

1. Defendants Baird B. Fisher and Jacqueline M. Fisher each shall notify the Commission of the following:

a. Any changes in such Defendant's residence, mailing addresses, and telephone numbers, within ten (10) days of the date of such change;

b. Any changes in such Defendant's employment status (including self-employment), and any change in such Defendant's ownership in any business entity, within ten (10) days of the date of such change. Such notice shall include the name and address of each business that such Defendant is affiliated with, employed by, creates or forms, or performs services for; a detailed description of the nature of the business; and a detailed description of such Defendant's duties and responsibilities in connection with the business or employment; and

c. Any changes in such Defendant's name or use of any aliases or fictitious names within ten (10) days of the date of such change;

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

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

1. For Defendants Baird B. Fisher and Jacqueline M. Fisher:

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

b. Such Defendant's then-current employment status (including self-employment), including the name, addresses, and telephone numbers of each business that such Defendant is affiliated with, employed by, or performs services for; a detailed description of the nature of the business; and a detailed description of such Defendant's duties and responsibilities in connection with the business or employment; and

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

2. For all Stipulating Defendants:

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

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

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

D. For the purposes of this Order, Stipulating Defendants shall, unless otherwise directed by the Commission's authorized representatives, send by overnight courier all reports and notifications to the Commission that are required by this Order to:

Associate Director for Enforcement
Bureau of Consumer Protection
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580
Re: *FTC v. Direct Financial Management Inc., et al.*, No. 10 C 7194

Provided that, in lieu of overnight courier, Stipulating Defendants may send such reports or notifications by first-class mail, but only if Stipulating Defendants contemporaneously send an electronic version of such report or notification to the Commission at: DEBrief@ftc.gov;

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

XIV. RECORD KEEPING PROVISIONS

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry of this Order, Stipulating Defendants, for any business for which they, individually or collectively, are the majority owner or directly or indirectly control, are hereby restrained and enjoined from failing to create and retain the following records:

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

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

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

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

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

F. All records and documents necessary to demonstrate full compliance with each provision of this Order, including, but not limited to, copies of acknowledgments of receipt of this Order required by the Sections titled "Distribution of Order" and "Acknowledgment of Receipt of Order" and all reports submitted to the FTC pursuant to the Section titled "Compliance Reporting."

XV. DISTRIBUTION OF ORDER

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

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

B. Stipulating Defendant Baird B. Fisher or Jacqueline M. Fisher as control person: For any business that Defendant Baird B. Fisher or Jacqueline M. Fisher controls, directly or indirectly, or in which such Defendant has a majority ownership interest, such Defendant must deliver a copy of this Order to (1) all principals, officers, directors, and managers of that business; (2) all employees, agents, and representatives of that business who engage in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled "Compliance Reporting." For current personnel, delivery shall be within five (5) days of service of this Order upon such Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities. For any business entity resulting from any change in structure set forth in Subsection A.2 of the

Section titled "Compliance Reporting," delivery shall be at least ten (10) days prior to the change in structure;

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

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

XVI. ACKNOWLEDGMENT OF RECEIPT OF ORDER

IT IS FURTHER ORDERED that each Stipulating Defendant, within five (5) business days of receipt of this Order as entered by the Court, must submit to the Commission a truthful sworn statement, in the form shown on **Attachment A** to this Order, acknowledging receipt of this Order.

XVII. COOPERATION WITH FTC COUNSEL

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

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

XVIII. SEVERABILITY

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

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XIX. RETENTION OF JURISDICTION

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

JUDGMENT IS THEREFORE ENTERED in favor of the Plaintiff and against Stipulating Defendants, pursuant to all the terms and conditions recited above.

IT IS SO ORDERED.

Dated: JAN 25 2012

HONORABLE JOAN H. LEFKOW
United States District Judge

SO STIPULATED AND AGREED:

JOHN C. HALLERUD
Attorney for Plaintiff
Federal Trade Commission

Date: January 24, 2012

DAVID ROTHENBERG
Attorney for Defendants F&F Payment Processing Inc., Bajada Management Group Inc., Baird B. Fisher, and Jacqueline M. Fisher

Date: 11/2/11

DEFENDANT BAIRD B. FISHER
Individually and as an officer of
F&F Payment Processing Inc. and
Bajada Management Group Inc.

Date: 11/2/11

DEFENDANT JACQUELINE M. FISHER

ATTACHMENT A

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

FEDERAL TRADE COMMISSION, Plaintiff, v. DIRECT FINANCIAL MANAGEMENT INC., et al., Defendants.	**Case No. 10 C 7194** **Judge Joan H. Lefkow** **Magistrate Judge Maria Valdez**

AFFIDAVIT ATTESTING TO RECEIPT OF STIPULATED FINAL JUDGMENT AND ORDER FOR PERMANENT INJUNCTION

I, _____, being duly sworn, hereby state and affirm as follows:

1. My name is _____. I am a citizen of _____ and am over the age of eighteen. I have personal knowledge of the facts set forth in this affidavit.

2. I am a Defendant in *FTC v. Direct Financial Management Inc., et al.,* Case No. 10 C 7194 (United States District Court for the Northern District of Illinois). I am also an officer of F&F Payment Processing Inc. and Bajada Management Group Inc., Defendants in *FTC v. Direct Financial Management Inc.*

3. My current employer is _____.

My current business address is _____.

My current business telephone number is _____. My current residential

address is _____. My current residential telephone number is _____.

4. The current business address of Defendant _____ is _____. The current business telephone number of Defendant _____ is _____.

5. On _____ [Date], I received a copy of the Stipulated Final Judgment and Order for Permanent Injunction Against Defendants F&F Payment Processing Inc., Bajada Management Group Inc., Baird B. Fisher, and Jacqueline M. Fisher, which was signed by the Honorable Joan H. Lefkow and entered by the Court on _____ _____ [Date of Entry of the Order]. A true and correct copy of the Order I received is appended to this Affidavit.

6. On _____ [Date], F&F Payment Processing Inc. and Bajada Management Group Inc. received a copy of the Stipulated Final Judgment and Order for Permanent Injunction Against Defendants F&F Payment Processing Inc., Bajada Management Group Inc., Baird B. Fisher, and Jacqueline M. Fisher, which was signed by the Honorable Joan H. Lefkow and entered by the Court on _____ [Date of Entry of the Order]. A true and correct copy of the Order it received is appended to this Affidavit.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on _____ [Date], at _____ [City, State or Province, and Country].

_____
Defendant Name, individually and as an officer of F&F Payment Processing Inc. and Bajada Management Group Inc.

State of _____, City of _____

Subscribed and sworn to before me
this ____ day of _____, 2011.

_____
Notary Public
My Commission Expires: