

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

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| |) | |
| STATE OF ILLINOIS, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| FEDERAL TRADE COMMISSION, |) | |
| |) | |
| Intervening Plaintiff, |) | Civil Action No. 99 C 1057 |
| |) | |
| v. |) | Hon. Rebecca R. Pallmeyer |
| |) | |
| NATIONAL MAINTENANCE SUPPLY, INC., |) | |
| an Illinois Corporation, and |) | |
| |) | |
| JACK F. NUGENT, |) | |
| individually and as an officer of National |) | |
| Maintenance Supply, Inc., |) | |
| |) | |
| Defendants. |) | |
| |) | |

**STIPULATED ORDER FOR PERMANENT INJUNCTION
WITH CONSUMER REDRESS AND OTHER EQUITABLE RELIEF**

Plaintiff, the State of Illinois (“the State”), has filed a Complaint for Injunctive and Other Equitable Relief ("Complaint") pursuant to the Telemarketing and Consumer Fraud and Abuse Prevention Act ("Telemarketing Act"), 15 U.S.C. §§ 6101-6108, and the Illinois Consumer Fraud Act (“Consumer Fraud Act”), 815 ILCS 505/1 *et seq.* (1996), charging Defendants National Maintenance Supply, Inc., and Jack F. Nugent (collectively "Defendants") with deceptive acts or practices in connection with the sale, offering for sale, or distribution of nondurable office, cleaning, or janitorial supplies. The State’s Complaint alleges that Defendants’ acts or practices violate Sections 310.3(a)(4) and 310.4(d)(2) of the Telemarketing Sales Rule ("Telemarketing

Rule"), 16 C.F.R. §§ 310.3(a)(4) and 310.4(d)(2), and Section 2 of the Consumer Fraud Act, 815 ILCS 505/2 (1996).

Intervening Plaintiff Federal Trade Commission ("FTC" or "Commission"), has intervened in this action pursuant to Section 4(b) of the Telemarketing Act, 15 U.S.C. § 6103(b), and filed its Complaint in Intervention, pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b, joining in the State's allegations that Defendants' acts or practices violate Sections 310.3(a)(4) and 310.4(d)(2) of the Telemarketing Sales Rule and further alleging that Defendants' acts or practices violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

The State, Commission, and Defendants ("Parties"), having been represented by counsel and acting by and through such counsel, have consented to the entry of this Stipulated Order for Permanent Injunction with Consumer Redress and Other Equitable Relief ("Stipulated Order") without a trial or adjudication of any issue of law or fact herein.

NOW, THEREFORE, the Parties, having requested the Court to enter this Stipulated Order, the Court, having considered the Stipulated Order reached among the parties and for other cause appearing, it is **ORDERED, ADJUDGED, AND DECREED** as follows:

FINDINGS

1. This is an action by the State instituted under Section 4 of the Telemarketing Act, 15 U.S.C. § 6103, and, pursuant to 28 U.S.C. § 1367, Section 2 of the Consumer Fraud Act, 815 ILCS 505/2. The State has the authority to seek the relief contained herein and the Complaint states a claim upon which relief may be granted against Defendants under the Telemarketing Rule, 16 C.F.R. Part 310, and the Consumer Fraud Act.

2. This is also an action by the Commission instituted under Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, and Sections 3(c) and 6 of the Telemarketing Act, 15 U.S.C. §§ 6102(c) and 6105. The Commission has the authority to seek the relief contained herein, and the Complaint in Intervention states a claim upon which relief may be granted against Defendants under Sections 5, 13(b), and 19 of the FTC Act, 15 U.S.C. §§ 45, 53(b), and 57b, and the Telemarketing Rule, 16 C.F.R. Part 310.

3. This Court has jurisdiction over the subject matter of this case and all parties hereto. Venue in the Northern District of Illinois is proper.

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

5. The Court's prior order dismissing Jack F. Nugent, individually, as a party defendant is hereby vacated.

6. The parties shall each bear their own costs and attorney's fees incurred in this action and have waived all claims under the Equal Access to Justice Act, 28 U.S.C. § 2412, and all rights to seek judicial review, or otherwise to challenge the validity of this Stipulated Order.

7. Entry of this Stipulated Order is in the public interest.

ORDER

Definitions

1. “**Defendants**” means National Maintenance Supply, Inc., Jack F. Nugent, and their officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, successors, assigns, all other persons or entities directly or indirectly under their control or under common control with them, and all other

persons or entities in active concert or participation with them, who receive actual notice of this Stipulated Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device, in connection with the advertising, promoting, offering for sale, sale or distribution of any product or service, or in connection with any telephone solicitation.

2. “**Document**” is synonymous in meaning and equal in scope to the usage of the term 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, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

3. “**Material**” means likely to affect a person’s choice of, or conduct regarding, goods or services.

4. “**Person**” means any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.

5. “**Telemarketing,**” except for purposes of Section III [Prohibited Business Activities Pursuant to the Telemarketing Rule] of this Stipulated Order, as defined at 16 C.F.R. § 310.1(u), means a plan, program, or campaign which is conducted to induce the purchase of goods or services by use of one or more telephones and which involves more than one interstate telephone call.

I.

PROHIBITED BUSINESS ACTIVITIES

IT IS THEREFORE ORDERED that defendant Jack F. Nugent, directly or through any corporation, subsidiary, division, or other device, is hereby permanently restrained and enjoined from engaging or participating in the advertising, promoting, marketing, offering for sale, sale or distribution of nondurable office, cleaning, or janitorial supplies by means of telemarketing.

II.

PROHIBITED BUSINESS ACTIVITIES PURSUANT TO THE FTC ACT

IT IS FURTHER ORDERED that Defendants are hereby enjoined from:

A. Misrepresenting, directly or by implication, through, inter alia, telephone calls, letters, invoices, packing slips, and/or shipment of nondurable office, cleaning, or janitorial supplies that any person ordered nondurable office, cleaning, or janitorial supplies that were shipped and/or billed to them by Defendants;

B. Misrepresenting, directly or by implication, through, inter alia, telephone calls, letters, invoices, packing slips, and/or shipment of nondurable office, cleaning, or janitorial supplies that any person has an obligation to pay a restocking fee before returning the nondurable office, cleaning, or janitorial supplies received from Defendants;

C. Misrepresenting, directly or by implication, any fact material to any person's decision to purchase any goods or services from Defendants, including, but not limited to:

(1) Misrepresenting that Defendants are sending such person a free sample of Defendants' maintenance supplies; and

(2) Misrepresenting the purpose of any telephone call made by Defendants to such a person;

D. Shipping any unordered goods to any person or requesting, demanding, or accepting payment for the shipment from any person for any shipment of any unordered goods, including, but not limited to, billing, invoicing, or charging the person; and

E. Shipping goods to any person without the prior express request or consent of the person, unless a clear and conspicuous statement is attached to the merchandise that the person may treat the merchandise as a gift and has the right to retain, use, discard, or dispose of it in any manner the person sees fit without any obligation whatsoever.

III.

PROHIBITED BUSINESS ACTIVITIES PURSUANT TO THE TELEMARKETING RULE

IT IS FURTHER ORDERED that Defendants are hereby enjoined from violating any provision of the Telemarketing Rule, 16 C.F.R. § 310.1 et seq., including, but not limited to:

A. Violating Section 310.4(d)(2) of the Telemarketing Rule, 16 C.F.R. § 310.4(d)(2), by failing to disclose promptly and in a clear and conspicuous manner to the person receiving a call from Defendants that the purpose of the call is to sell goods;

B. Violating Section 310.3(a)(4) of the Telemarketing Rule, 16 C.F.R. § 310.3(a)(4) by making false or misleading statements to induce the purchase of Defendants' nondurable office, cleaning, or janitorial supplies including, but not limited to, misrepresentations that:

(1) If the person wishes to return a shipment, the person has an obligation to pay a "restocking fee;"

(2) The supplies shipped and/or billed by Defendants were ordered by the recipient.

IV.

CONSUMER REDRESS

IT IS FURTHER ORDERED that:

A. Judgment in the amount of Eighty Thousand Dollars (\$80,000) shall be entered in favor of the Commission and State and against Defendants, jointly and severally, which judgment shall be payable as provided below:

(1) On or before the date that Defendants execute this Stipulated Order, Defendants National Maintenance Supply, Inc., and Jack F. Nugent shall pay to the Commission the sum of Thirty Five Thousand Dollars (\$35,000) by certified check or other guaranteed funds payable to and delivered to the Commission, or by wire transfer in accord with directions provided by the Commission.

(2) Within ninety (90) days after receiving notice of the entry of this Final Judgment and Order for Permanent Injunction, Defendants shall transfer to the Commission another cash payment in the amount of Forty Five Thousand Dollars (\$45,000) by certified check or other guaranteed funds payable to and delivered to the Commission, or by wire transfer in accord with directions provided by the Commission.

(3) On or before the date that Defendants execute this Stipulated Order, as security for the payments contemplated by this Part IVA, Defendant Jack F. Nugent shall enter into an Assignment of Life Insurance Policy As Collateral (“Assignment”) of Monarch Life Insurance Policy Number LG0069588.

(4) As additional security for the payments required by this Part IVA, the parties contemplate that this Stipulated Order, or such memorandum of judgment or other document evidencing this Stipulated Order, shall be recorded with the Recorder of Deeds. The parties contemplate that such document evidencing this Stipulated Order shall create a judgment lien enforceable by law and, in particular, contemplate that such judgment lien may be enforced, in the event of default as further described in Part IVA5 below, against the real estate commonly known as 19963 South Pine Hill Road, Frankfort, Illinois 60423, Assessor's Parcel Number 09-14-205-011-000 and more particularly described as:

LOT 1, BLOCK 14, IN FRANKFORT SQUARE
UNIT NO. 4, BEING A SUBDIVISION OF PART
OF THE NORTH ½ OF THE NORTHEAST 1/4
OF SECTION 14, TOWNSHIP 35 NORTH,
RANGE 12, EAST OF THE THIRD PRINCIPAL
MERIDIAN, ACCORDING TO THE PLAT
THEREOF RECORDED JUNE 6, 1972, AS
DOCUMENT NO. R72-15231, IN WILL
COUNTY, ILLINOIS.

("Frankfort Property"). Defendant Nugent represents and warrants that (a) he is the owner of the Frankfort Property free of all security interests or other encumbrances except for the interest of Washington Mutual, P.O. Box 1093, North Ridge, California 91328 created pursuant to loan 7017471637. From the date that Defendant Nugent signs this Stipulated Order until the date that the conditions in this Part IVA are fulfilled, Defendant Nugent will refrain from causing additional security interests, adverse liens, or other encumbrances to arise on the Frankfort Property and will not assign, sell, lease, mortgage, encumber, transfer, deliver or otherwise dispose of the Frankfort Property or any interest therein without the prior written consent of a representative of the Commission.

(5) Time is of the essence for the payments specified above. In the event that Defendants do not fulfill, or only partially fulfill, the conditions set forth in this Part IVA, the Commission may immediately surrender the insurance policy described above and receive the surrender value thereof as provided in the Assignment of Insurance Policy as Collateral and enforce the above described judgment lien, as provided by law, to the extent of Eighty Thousand Dollars (\$80,000), less any payments received; *Provided, however,* that, upon fulfillment of the conditions in this Part IVA, the Commission and State shall execute a release of the Assignment and file a satisfaction of judgment; *Provided further,* that the fulfillment of the conditions of this Part IVA and the filing of the satisfaction of judgment shall not affect the remaining provisions of this Stipulated Order, including, but not limited to, the provisions in Part V (Right to Reopen).

B. The funds paid by Defendants pursuant to this Part IV of this Stipulated Order shall be deposited into a redress fund, administered by the Commission, to be used for equitable relief including, but not limited to, consumer redress and any attendant expenses for the administration of any redress fund. If the Commission and the State determine, in their sole joint discretion, that redress to purchasers is wholly or partially impracticable, any funds not so used shall be divided between the State and the Commission, in such proportion as the Commission and State shall agree. The Attorney General shall cause funds received by the State to be deposited into the Attorney General Court Ordered and Voluntary Compliance Payment Projects Fund. Said funds shall be used by the Attorney General for law enforcement activity and consumer education programs associated with the enforcement of the Consumer Fraud Act and Defendants shall not be entitled to further accounting regarding the money deposited into said fund. Funds

received by the Commission shall be paid to the United States Treasury in lieu of redress.

Defendants shall have no right to contest the manner of distribution chosen by the Commission and State. The Commission in its sole discretion may use a designated agent to administer consumer redress. The State, Commission, and Defendants acknowledge and agree that this judgment for equitable monetary relief is solely remedial in nature and is not a fine, penalty, punitive assessment, or forfeiture.

C. In the event of any default on any obligation to make payment under this Part IV of this Stipulated Order, interest, computed pursuant to 28 U.S.C. § 1961(a), shall accrue from the date of default to the date of payment.

D. Defendants are hereby required, in accordance with 31 U.S.C. § 7701, to furnish to the Commission their respective 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 such persons' relationship with the government.

V.

RIGHT TO REOPEN

IT IS FURTHER ORDERED that within five (5) business days after the date this Stipulated Order is signed by the Court, Defendants National Maintenance Supply, Inc., and Jack F. Nugent shall each submit to the State and Commission a truthful sworn statement (in the form shown on Appendix A to this Stipulated Order) that shall reaffirm and attest to the truthfulness, accuracy, and completeness of their respective financial statements, namely that of National Maintenance Supply, Inc., and that of Jack F. Nugent both dated July 28, 1999. The State and Commission's agreement to this Stipulated Order is expressly premised upon the financial

condition of each defendant, as represented in their financial statements and amendments thereto, which contain material information upon which the State and Commission relied in negotiating and agreeing upon this Stipulated Order.

If, upon motion of the State or Commission, the Court finds that National Maintenance Supply, Inc., or Jack F. Nugent failed to file the sworn statement required by this Section, or that either defendant failed to disclose any material asset, or materially misrepresented the value of any asset, or made any other material misrepresentation in or omission from the financial statement, the State or Commission may either (1) request that the judgment herein be reopened against such Defendants for the purpose of requiring additional monetary consumer redress or obtaining other equitable relief up to the total amount of consumer injury in this matter, or (2) seek to obtain other equitable relief. If the Court finds that National Maintenance Supply, Inc., or Jack F. Nugent failed to file the sworn statement required by this Section, or that either defendant failed to disclose any material asset, or materially misrepresented the value of any asset, or made any other material misrepresentation in or omission from the financial statement, the Court shall enter judgment against Defendants in the amount of one million five hundred seventy two thousand dollars (\$1,572,000) less any amounts that Defendants have paid in consumer redress.

Provided, however, that in all other respects this judgment shall remain in full force and effect, unless otherwise ordered by the Court.

VI.

CUSTOMER LISTS

IT IS FURTHER ORDERED that Defendants are hereby permanently restrained and enjoined from:

A. Selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, social security number, or other identifying information of any person who paid any money to Defendants, at any time prior to the date this Stipulated Order is entered, in connection with the sale of the products or services referenced in the Complaint. *Provided, however,* that Defendants may disclose such identifying information to a law enforcement agency or as required by any law, regulation, or court order;

B. Collecting or attempting to collect on accounts arising from the shipment of nondurable office, cleaning, or janitorial supplies prior to the date this Stipulated Order is entered.

VII.

ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that, within five (5) business days after receipt by Defendants of this Stipulated Order as entered by the Court, Defendants shall submit to the State and Commission a truthful sworn statement, in the form shown on Appendix B, that shall acknowledge receipt of this Stipulated Order.

VIII.

DISTRIBUTION OF ORDER BY DEFENDANTS

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Stipulated Order, Defendants shall:

A. Provide a copy of this Stipulated Order to, and obtain a signed and dated acknowledgment of receipt of same from, each officer or director, each individual serving in a management capacity, all personnel involved in responding to consumer complaints or inquiries, and all sales personnel, whether designated as employees, consultants, independent contractors or otherwise, immediately upon employing or retaining any such persons, for any business where defendant Jack F. Nugent is the majority owner of the business or directly or indirectly manages or controls the business, and where the business is engaged in telemarketing or the sale of nondurable office, cleaning, or janitorial supplies, or assists others engaged in these activities;

B. Maintain for a period of three (3) years after creation, and upon reasonable notice, make available to representatives of the State and Commission, the original signed and dated acknowledgments of the receipt of copies of this Stipulated Order, as required in Subsection (A).

IX.

MONITORING COMPLIANCE OF SALES PERSONNEL

IT IS FURTHER ORDERED that, in connection with any business where defendant Jack F. Nugent is the majority owner of the business or directly or indirectly manages or controls the business, and where the business is engaged in telemarketing or the sale of nondurable office, cleaning, or janitorial supplies, or assists others engaged in these activities, Defendants 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 II and III of this Stipulated Order. Such steps shall include adequate monitoring of sales presentations or other calls with customers, 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; provided that this Section does not authorize or require the defendant to take any steps that violate any federal, state, or local laws;

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

C. Failing to take corrective action with respect to any sales person whom defendant determines is not complying with this Stipulated Order, which may include training, disciplining, and/or terminating such sales person.

X.

RECORD KEEPING PROVISIONS

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Stipulated Order, Defendants, in connection with any business where defendant Jack F. Nugent is the majority owner of the business or directly or indirectly manages or controls the business, and where the business is engaged in telemarketing or the sale of nondurable office, cleaning, or janitorial supplies, or assists others engaged in these activities, are hereby restrained

and enjoined from failing to create, and from failing to retain for a period of three (3) years following the date of such creation, unless otherwise specified:

A. Books, records and accounts that, in reasonable detail, accurately and fairly reflect the cost of goods or services sold, revenues generated, and the disbursement of such revenues;

B. 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. The businesses subject to this Section shall retain such records for any terminated employee for a period of two (2) years following the date of termination;

C. Records containing the names, addresses, phone numbers, dollar amounts paid, quantity of items or services purchased, and description of items or services purchased, for all consumers to whom such business has sold, invoiced or shipped any goods or services;

D. Records that reflect, for every consumer complaint or refund request, whether received directly or indirectly or through any third party:

(1) The consumer's name, address, telephone number and the dollar amount paid by the consumer;

(2) The written complaint or refund request, if any, and the date of the complaint or refund request;

(3) The basis of the complaint, including the name of any salesperson complained against, and the nature and result of any investigation conducted concerning any complaint;

- (4) Each response and the date of the response;
- (5) Any final resolution and the date of the resolution; and
- (6) In the event of a denial of a refund request, the reason for the denial; and

E. Copies of all sales scripts, training materials, advertisements, or other marketing materials utilized; provided that copies of all sales scripts, training materials, advertisements, or other marketing materials utilized shall be retained for (3) years after the last date of dissemination of any such materials.

XI.

COMPLIANCE REPORTING BY DEFENDANT

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

A. For a period of five (5) years from the date of entry of this Stipulated Order, Defendants shall notify the State and Commission of the following:

- (1) Any changes in Defendants' residence, mailing addresses, and telephone numbers, within ten (10) days of the date of such change;
- (2) Any changes in Defendants' employment status (including self-employment) within ten (10) days of such change. Such notice shall include the name and address of each business that such defendant is affiliated with or employed by, a statement of the nature of the business, and a statement of Defendants' duties and responsibilities in connection with the business or employment; and
- (3) Any proposed change in the structure of defendant National Maintenance Supply, Inc., or of any business entity owned or controlled by defendant Jack F. Nugent,

such as creation, incorporation, dissolution, assignment, sale, merger, creation, dissolution of subsidiaries, proposed filing of a bankruptcy petition, or change in the corporate name or address, or any other change that may affect compliance obligations arising out of this Stipulated Order, thirty (30) days prior to the effective date of any proposed change; *provided, however,* that, with respect to any proposed change in the corporation about which defendant learns less than thirty (30) days prior to the date such action is to take place, defendant shall notify the State and Commission as soon as is practicable after learning of such proposed change;

B. One hundred eighty (180) days after the date of entry of this Stipulated Order, Defendants shall provide a written report to the State and Commission, sworn to under penalty of perjury, setting forth in detail the manner and form in which the Defendants have complied and are complying with this Stipulated Order. This report shall include but not be limited to:

- (1) Defendant Jack F. Nugent's current residence address and telephone number;
- (2) Defendant Jack F. Nugent's current employment, business addresses and telephone numbers, a description of the business activities of each such employer, and defendant's titles and responsibilities for each employer;
- (3) A copy of each acknowledgment of receipt of this Stipulated Order obtained by Defendants pursuant to Section VII; and
- (4) A statement describing the manner in which Defendants have complied and is complying with Sections II and III of this Stipulated Order;

C. Upon written request by a representative of the State or Commission, Defendants shall submit additional written reports (under oath, if requested) and produce documents on fifteen (15) days' notice with respect to any conduct subject to this Stipulated Order;

D. For the purposes of this Stipulated Order, Defendants shall, unless otherwise directed by the Commission's authorized representatives, mail all written notifications to the Commission to:

Regional Director
Federal Trade Commission
Midwest Region
55 East Monroe Street, Suite 1860
Chicago, Illinois 60603
Re: FTC v. National Maintenance Supply, Inc.;

E. For the purposes of this Stipulated Order, Defendants shall, unless otherwise directed by the State's authorized representatives, mail all written notifications to the State to:

Bureau Chief
Consumer Fraud Bureau
Office of the Illinois Attorney General
100 West Randolph Street
Suite 1200
Chicago, Illinois 60601-3218

F. For the purposes of this Section, "employment" includes the performance of services as an employee, consultant, or independent contractor; and "employers" include any individual or entity for whom defendant Jack F. Nugent performs services as an employee, consultant, or independent contractor; and

G. For purposes of the compliance reporting required by this Section, the State or Commission is authorized to communicate directly with defendant Jack F. Nugent.

XII.

STATE AND COMMISSION'S AUTHORITY TO MONITOR COMPLIANCE

IT IS FURTHER ORDERED that the State and Commission are authorized to monitor Defendants compliance with this Stipulated Order by all lawful means, including but not limited to the following means:

A. The State and Commission are authorized, without further leave of court, to obtain discovery from any person in the manner provided by Chapter V of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 26 - 37, including the use of compulsory process pursuant to Fed. R. Civ. P. 45, for the purpose of monitoring and investigating Defendants' compliance with any provision of this Stipulated Order;

B. The State and Commission are authorized to use representatives posing as consumers and suppliers to Defendants, Defendants' employees, or any other entity managed or controlled in whole or in part by defendant Jack F. Nugent, without the necessity of identification or prior notice;

C. Nothing in this Stipulated 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 investigate whether Defendants have violated any provision of this Stipulated Order or Section 5 of the FTC Act, 15 U.S.C. § 45; and

D. Nothing in this Stipulated Order shall limit the State's lawful use of compulsory process, pursuant to Sections 3 and 4 of the Illinois Consumer Fraud Act, 815 ILCS 505/3 and 815 ILCS 505/4, to investigate whether Defendants have violated any provision of this Stipulated Order or the Illinois Consumer Fraud Act.

XIII.

ACCESS TO BUSINESS PREMISES

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Stipulated Order, for the purpose of further determining compliance with this Stipulated Order, Defendants shall permit representatives of the State or Commission, within three (3) business days of receipt of written notice from the State or Commission:

A. Access during normal business hours to any office, or facility storing documents, of any business where defendant Jack F. Nugent is the majority owner of the business or directly or indirectly manages or controls the business, and where the business is engaged in telemarketing or the sale of nondurable office, cleaning, or janitorial supplies, or assists others engaged in these activities. In providing such access, Defendants shall permit representatives of the State or Commission to inspect and copy all documents relevant to any matter contained in this Stipulated Order; and shall permit State and Commission representatives to remove documents relevant to any matter contained in this Stipulated Order for a period not to exceed five (5) business days so that the documents may be inspected, inventoried, and copied; and

B. To interview the officers, directors, and employees, including all personnel involved in responding to consumer complaints or inquiries, and all sales personnel, whether designated as employees, consultants, independent contractors or otherwise, of any business to which Subsection (A) applies, concerning matters relating to compliance with the terms of this Stipulated Order. The person interviewed may have counsel present.

Provided that, upon application of the State or Commission and for good cause shown, the Court may enter an *ex parte* order granting immediate access to Defendants' business premises for the purposes of inspecting and copying all documents relevant to any matter contained in this Stipulated Order.

XIV.

RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for all purposes.

The Parties agree and stipulate to entry of the foregoing Stipulated Order as a Final Judgment in this action.

STATE OF ILLINOIS

Dated: _____ By: _____
JOHN A. RUBERTI
Assistant Attorney General
Attorney for Plaintiff State of Illinois

FEDERAL TRADE COMMISSION

Dated: _____ By: _____
JOHN C. HALLERUD
Attorney for Intervening Plaintiff
Federal Trade Commission

NATIONAL MAINTENANCE SUPPLY, INC.

Dated: _____ By: _____
JACK F. NUGENT, President

Dated: _____ By: _____
JACK F. NUGENT, Individually

IT IS SO ORDERED.

Dated: _____ By: _____

HONORABLE REBECCA R. PALLMEYER
United States District Judge

APPENDIX A

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

| | | |
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| STATE OF ILLINOIS, |) | |
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| Plaintiff, |) | |
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| Intervening Plaintiff, |) | Civil Action No. 99 C 1057 |
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| NATIONAL MAINTENANCE SUPPLY, INC., |) | |
| an Illinois Corporation, and |) | |
| |) | |
| JACK F. NUGENT, |) | |
| individually and as an officer of National |) | |
| Maintenance Supply, Inc., |) | |
| |) | |
| Defendants. |) | |

I, Jack F. Nugent, hereby state that the information contained in the Financial Statements of Defendants Jack F. Nugent and National Maintenance Supply, Inc., dated July 28, 1999, were true, accurate, and complete at such time.

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

Executed on: _____

Jack F. Nugent

APPENDIX B

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

| | | |
|--|---|----------------------------|
| STATE OF ILLINOIS, |) | |
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| Plaintiff, |) | |
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| Intervening Plaintiff, |) | Civil Action No. 99 C 1057 |
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| |) | |
| JACK F. NUGENT, |) | |
| individually and as an officer of National |) | |
| Maintenance Supply, Inc., |) | |
| |) | |
| Defendants. |) | |

I, Jack F. Nugent, being duly sworn, hereby state and affirm as follows:

1. My name is. _____ . My current residence address is _____ . I am a citizen of the United States 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. National Maintenance Supply, et al.*, 99 C 1057 (United States District Court for the Northern District of Illinois).

3. On _____, I received a copy of the Stipulated Order for Permanent Injunction with Consumer Redress and Other Equitable Relief which was signed by the Honorable Rebecca R. Pallmeyer and entered by the Court on _____. A true and correct copy of the Order I 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 _____.

State of Illinois

County of Cook

Subscribed and sworn to before me this ____ day of _____, 199__.

Notary Public
My Commission Expires:
