

1 ELIZABETH M. GRANT
MARC M. GROMAN
2 Federal Trade Commission
600 Pennsylvania Ave., NW
Washington, DC 20580
3 202-326-3299; 326-2042; 326-3395 (fax)

4 RAYMOND MCKOWN CA Bar # 150975
Federal Trade Commission
Local Counsel
5 10877 Wilshire Blvd., Suite 700
Los Angeles, CA 90024
6 310-824-4325; 310-824-4380 (fax)

7 Attorneys for Plaintiff
FEDERAL TRADE COMMISSION

8 LANCE WINSLOW, III
Appearing *Pro Se*
9 individually, and on behalf
of, as the sole officer and
director of, Defendants
10 The Car Wash Guys,
Intl., Inc,
11 and Wash Guy.Com, Inc.
43750 Carmel Circle
12 Palm Desert, CA 92550
1-888-927-4489 (phone)
13 1-888-927-4425 (fax)

14 MICHELLE PORTNEY
Appearing *Pro Se*
individually
15 43750 Carmel Circle
Palm Desert, CA 92550
1-888-927-4489 (phone)
16 1-888-927-4425 (fax)

17 For All Defendants

18
19 UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
20 EASTERN DIVISION

21 FEDERAL TRADE COMMISSION,

22 Plaintiff,

23 v.

24 THE CAR WASH GUYS INTL., INC.,
WASH GUY.COM, INC.,
25 LANCE WINSLOW, III,
individually and as an officer
of said companies, and
26 MICHELLE PORTNEY, a/k/a
MICHELLE WINSLOW,

27 Defendants.
28

No. CV 00-8197 ABC (RNBx)

STIPULATED PRELIMINARY
INJUNCTION

1 On July 31, 2000, Plaintiff, the Federal Trade
2 Commission ("Commission"), filed a Complaint for a Permanent
3 Injunction and Other Relief, including rescission of
4 contracts and redress to consumers, pursuant to Sections
5 13(b) and 19 of the Federal Trade Commission Act ("FTC
6 Act"), 15 U.S.C. §§ 53(b) and 57b, and the Commission's
7 Trade Regulation Rule entitled "Disclosure Requirements and
8 Prohibitions Concerning Franchising And Business Opportunity
9 Ventures" (the "Franchise Rule" or the "Rule"), 16 C.F.R.
10 Part 436. Pursuant to the Commission's application, this
11 Court issued an Ex Parte Temporary Restraining Order
12 pursuant to Rule 65(b) of the Federal Rules of Civil
13 Procedure (Fed. R. Civ. P. 65(b)) and C.D. Cal. Local Rule
14 7.18.2 and ordered Defendants to show cause why a
15 preliminary injunction should not issue and set a hearing
16 for August 16, 2000. By agreement of the parties, the
17 hearing was continued to August 28, 2000. Defendant Lance
18 Winslow, individually, and as an officer on behalf of
19 Defendants The Car Wash Guys, International, Inc. and Wash
20 Guy.Com, Inc., and Defendant Michelle Portney, appearing pro
21 se, have agreed to entry of this Stipulated Preliminary
22 Injunction by this Court. Now, therefore, the parties have
23 agreed and the Court finds that:

- 24 1. This Court has jurisdiction of the subject matter of
25 this case and there is good cause to believe it will have
26 jurisdiction of all parties hereto;
- 27 2. Venue lies properly with this Court;
- 28 3. This Order is in the best interests of all the

1 parties to this action and, after weighing the equities, is
2 in the public interest; and

3 4. No security is required of any agency of the United
4 States for issuance of a preliminary injunction. Fed. R.
5 Civ. P. 65(c).

6 **Definitions**

7 For the purpose of this Stipulated Preliminary
8 Injunction, the following definitions shall apply:

9 1. "**Assets**" means any legal or equitable interest in,
10 right to, or claim to, any real and personal property,
11 including, but not limited to "goods," "instruments,"
12 "equipment," "fixtures," "general intangibles," "inventory,"
13 "checks," or "notes" (as these terms are defined in the
14 Uniform Commercial Code), and all chattel, leaseholds,
15 contracts, mail, or other deliveries, shares of stock,
16 accounts, effects, credits, premises, receivables, funds,
17 and cash, wherever located.

18 2. "**Business opportunity**" means any written or oral
19 business arrangement, however denominated, whether or not
20 covered by the Franchise Rule, which consists of the payment
21 of any consideration for: (a) the right or means to offer,
22 sell, or distribute goods or services (whether or not
23 identified by a trademark, service mark, trade name,
24 advertising, or other commercial symbol); or, (b) assistance
25 to any person or entity in connection with or incident to
26 the establishment, maintenance, or operation of a new
27 business or entry by an existing business into a new line or
28 type of business.

1 3. "**Defendants**" means The Car Wash Guys International,
2 Inc. ("CWGI"), Wash Guy.Com, Inc. ("Washguy"), Lance
3 Winslow, III ("Winslow"), and Michelle Portney, a/k/a
4 Michelle Winslow ("Portney"), and each of them, and any
5 entity through which they do business.

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

15 5. "**Franchise**" is any offering that is defined as a
16 franchise in Section 436.2(a) of the Franchise Rule, 16
17 C.F.R. Part 436.2(a), attached to this Order as Attachment
18 B.

19 6. "**Person**" means any individual, group, unincorporated
20 association, limited or general partnership, corporation, or
21 other business entity.

22 7. "**UFOC format**" is defined as the Uniform Franchise
23 Offering Circular disclosure format, shown at Attachment C,
24 and which has been adopted by the North American Securities
25 Administrators' Association and is now accepted by the
26 Commission for use in lieu of the Franchise Rule's
27 disclosure format.

28

1 E. Falsely representing that any franchisee or business
2 opportunity purchaser will be provided with a base of
3 accounts or customers or falsely representing the amount or
4 number of accounts or customers that will be provided;

5 F. Falsely representing the nature, effectiveness,
6 methods or techniques used by any Defendant in connection
7 with marketing or promoting any franchise or business
8 opportunity;

9 G. Falsely representing the nature, scope, or amount
10 of any training provided to any franchisee or business
11 opportunity purchaser;

12 H. Falsely representing the nature or scope of any
13 Defendant's business relationship with other entities,
14 including falsely representing that any Defendant performs
15 services on a nationwide basis for such entities;

16 I. Falsely representing any payments or services
17 provided to any franchisee or business opportunity purchaser
18 or investor; and

19 J. Falsely representing the amount, nature, or degree
20 of assistance that will be provided to any franchisee or
21 business opportunity purchaser.

22 **PROHIBITION AGAINST VIOLATING THE FRANCHISE RULE**

23 **II.**

24 **IT IS FURTHER ORDERED** that, in connection with the
25 advertising, offering for sale or sale of any franchise,
26 defendants CWGI, Washguy, Winslow, and Portney, and each of
27 them, and their officers, directors, agents, servants,
28 employees, salespersons, franchise brokers, corporations,

1 subsidiaries, affiliates, successors, assigns, and other
2 entities or persons directly or indirectly under their
3 control, and all persons in active concert or participation
4 with them who receive actual notice of this Order by
5 personal service, facsimile or otherwise, are preliminarily
6 restrained and enjoined from violating, or assisting others
7 in violating, any part of the Franchise Rule, 16 C.F.R. Part
8 436, attached to this Order as Attachment B, including but
9 not limited to:

10 A. Failing to provide potential franchisees with a
11 complete and accurate disclosure document within the times
12 stated in the Franchise Rule, 16 C.F.R. Part 436.1(a);

13 B. Making or assisting others in making statements that
14 are inconsistent with the relevant disclosure document, in
15 violation of the Franchise Rule, 16 C.F.R. Part 436.1(f);

16 C. Forming, incorporating, or utilizing another
17 corporation or business entity, under whose name disclosure
18 documents are distributed, for the purpose of avoiding,
19 concealing, or failing to make disclosures required by the
20 Franchise Rule. Accordingly, in any disclosure document
21 Defendants distribute under Washguy's name, Defendants are
22 prohibited from failing to provide disclosures on the basis
23 that Washguy has not been in existence or operation for a
24 sufficient time period to have such information. Whenever
25 the Defendants are required to disclose information relating
26 to the franchisor's prior fiscal years or historical
27 information about the franchisor, Defendants shall disclose
28 information relating to CWGI as well as Washguy, including

1 any required disclosure of audited financial statements,
2 litigation history, and number, status, and identity of
3 franchisees;

4 D. Failing to revise the disclosure statement or attach
5 quarterly updates as required by Section 436.1(a)(22) of the
6 Franchise Rule; *provided however*, Defendants are prohibited
7 from distributing a disclosure document that fails to
8 reflect the existence of this action, regardless of whether
9 this action falls between a revision or updating period.

10 **REQUIREMENT TO FOLLOW UFOC GUIDELINES**

11 **III.**

12 **IT IS FURTHER ORDERED** that, in connection with the
13 advertising, offering for sale or sale of any franchise,
14 defendants CWGI, Washguy, Winslow, and Portney, and each of
15 them, and their officers, directors, agents, servants,
16 employees, salespersons, franchise brokers, corporations,
17 subsidiaries, affiliates, successors, assigns, and other
18 entities or persons directly or indirectly under their
19 control, and all persons in active concert or participation
20 with them who receive actual notice of this Order by
21 personal service, facsimile or otherwise, are presumed to
22 have elected to comply with the Franchise Rule by
23 truthfully, accurately, and completely complying with the
24 disclosure requirements set forth in the UFOC format. Any
25 disclosure document Defendants distribute or cause to be
26 distributed shall contain truthful and complete disclosures
27 as specified in the UFOC guidelines as set forth in
28 Attachment C to this Order and incorporating the

1 requirements of Paragraph II above. In any UFOC disclosure
2 document distributed under Washguy's name, CWGI shall be
3 treated as a predecessor corporation, *provided however* this
4 does not modify the requirement in Paragraph II that when
5 disclosures are required concerning the franchisor's prior
6 fiscal years or which require historical information about
7 the franchisor, Defendants shall disclose information
8 relating to CWGI as well as Washguy. In the event that,
9 during the pendency of this litigation, Defendants wish to
10 distribute disclosure documents in the Franchise Rule
11 format, they shall move the Court for appropriate
12 modification to this provision of this Order. Nothing in
13 this Order supersedes any state law requirement concerning
14 franchise or business opportunity registration or any other
15 state law requirements relating to Defendants.

16 **PROHIBITION AGAINST EARNINGS CLAIMS**

17 **IV.**

18 **IT IS FURTHER ORDERED** that, in connection with the
19 advertising, offering for sale or sale of any franchise,
20 defendants CWGI, Washguy, Winslow, and Portney, and each of
21 them, and their officers, directors, agents, servants,
22 employees, salespersons, franchise brokers, corporations,
23 subsidiaries, affiliates, successors, assigns, and other
24 entities or persons directly or indirectly under their
25 control, and all persons in active concert or participation
26 with them who receive actual notice of this Order by
27 personal service, facsimile or otherwise, are preliminarily
28 restrained and enjoined from making any express or implied

1 representation, in any manner, orally or in writing,
2 including over the Internet, to any consumer, about actual
3 or potential earnings of franchisees or about actual or
4 potential earnings of businesses similar to the offered
5 franchise, including any representations about income,
6 profit, or sales volume, and including providing any chart
7 or other graphical representation depicting potential
8 earnings. *Provided however*, this Paragraph shall not be
9 interpreted as prohibiting Defendants' current or former
10 franchisees or licensees from providing truthful and
11 accurate information about their own earnings, income,
12 profit or sales volume. During the pendency of this
13 litigation, Defendants may move this Court for modification
14 of this Paragraph to allow Defendants to make claims about
15 actual or potential earnings, income, profit or sales
16 volume, provided that such motion is filed in accordance
17 with the Local Rules, sets forth Defendants' proposed claim,
18 and is supported by written substantiation establishing a
19 reasonable basis for such claim.

20 **ASSET FREEZE**

21 **V.**

22 **IT IS FURTHER ORDERED** that defendants CWGI, Washguy,
23 Winslow, and Portney, and each of them, and their officers,
24 directors, agents, servants, employees, salespersons,
25 franchise brokers corporations, subsidiaries, affiliates,
26 successors, assigns, and other entities or persons directly
27 or indirectly under their control, and all persons in active
28 concert or participation with them who receive actual notice

1 of this Order by personal service, facsimile or otherwise,
2 are hereby preliminarily restrained and enjoined from,
3 directly or indirectly:

4 A. Except as otherwise provided herein, transferring,
5 liquidating, converting, encumbering, pledging, loaning,
6 selling, concealing, dissipating, disbursing, assigning,
7 spending, withdrawing, granting a lien or security interest
8 or other interest in, or otherwise disposing of any funds,
9 real or personal property, accounts, contracts, consumer
10 lists, shares of stock, or other assets, or any interest
11 therein, wherever located, that are: (1) owned or
12 controlled by defendants CWGI, Washguy, Winslow, or Portney,
13 or held, in whole or in part, for the benefit of Defendants;
14 (2) in the actual or constructive possession of Defendants;
15 or (3) owned, controlled by, or in the actual constructive
16 possession of any corporation, partnership, or other entity
17 directly or indirectly owned, managed, or controlled by any
18 defendant, including, but not limited to any assets held by
19 or for any defendant at any bank or savings and loan
20 institution, or with any broker-dealer, escrow agent, title
21 company, commodity trading company, precious metals dealer,
22 or other financial institution or depository of any kind;

23 B. Opening or causing to be opened any safe deposit
24 boxes titled in the name of any defendant, or subject to
25 access by any defendant or under their control;

26 C. Defendants Michelle Portney and Lance Winslow may
27 use any funds or assets they lawfully received between the
28 entry of the Temporary Restraining Order and the date of

1 this Order and any funds or assets they lawfully receive
2 after the date of this Order, provided such funds or assets
3 are not related to the activities or operation of, or
4 obtained from, the corporate defendants CWGI and Washguy or
5 any affiliate operation, for reasonable, usual, ordinary,
6 and necessary living expenses and reasonable attorney's
7 fees. Defendants Winslow and Portney shall deposit such
8 assets into an account identified to counsel for the
9 Commission. Within five (5) business days after entry of
10 this Order, Defendants Winslow and Portney shall report in
11 writing to counsel for the Commission the account he or she
12 intends to use to deposit such funds, the source or
13 anticipated source of such funds, and in the event such
14 funds are obtained through employment or occupation
15 unrelated to the operation or activities of the corporate
16 defendants, his or her place of occupation or employment,
17 the nature of his or her occupation or employment, his or
18 her position and responsibilities, and the amount of any
19 compensation he or she receives. Subsequent to this initial
20 report, within five (5) business days after receiving a
21 monthly banking statement for the identified account,
22 Defendants Winslow and Portney shall provide a written
23 report to counsel for the Commission identifying the source
24 of any funds deposited to such account, including the
25 identity of the person providing the funds and reason for
26 such payment. The report shall also include a copy of the
27 banking statement and canceled checks for that month.
28 Defendants Winslow and Portney shall identify and describe

1 the purpose of any cash withdrawals totaling more than \$400
2 a month. During the pendency of this litigation, all other
3 existing or after-acquired assets owned by Defendants
4 Winslow and Portney shall remain frozen, including, but not
5 limited to, assets identified in financial statements and
6 tax returns provided by Defendants to the Commission;
7 *provided however*, that Defendant Portney may withdraw up to
8 \$5,000 in assets located in an existing bank account upon
9 notice to the Commission to pay for reasonable, usual,
10 ordinary, and necessary living expenses incurred between
11 entry of the TRO and the date of this Order and for the
12 payment of Defendant Portney's estimated quarterly taxes,
13 due on or about September 15, 2000.

14 D. Defendants CWGI and Washguy may use any funds they
15 received from franchisees for royalties or marketing fees
16 between the entry of the Temporary Restraining Order and the
17 date of this Order and any funds they receive from
18 franchisees for royalties or marketing fees after the date
19 of this Order to pay for reasonable, usual, ordinary, and
20 necessary business expenses and reasonable attorney's fees.
21 Defendants shall deposit such funds into an account
22 identified to counsel for the Commission and such account
23 must be separate from any account used by Defendants Winslow
24 and Portney for personal expenses. Within five (5) business
25 days after entry of this Order, Defendants shall report in
26 writing to counsel for the Commission the account to be used
27 to deposit such funds, and the amount and source of the
28 funds deposited, including the identity of the franchisee or

1 other person paying such funds and the reason for payment.
2 Subsequent to this initial report, within five (5) business
3 days after receiving a monthly banking statement for the
4 identified account, Defendants shall provide a written
5 report to counsel for the Commission identifying the source
6 of any funds deposited to such account, including the
7 identity of the franchisee or other person providing the
8 funds and reason for such payment. The report shall also
9 include a copy of the banking statement and canceled checks
10 for that month. Defendants shall identify and describe the
11 purpose of any cash withdrawals from this account. This
12 account shall be referred to as the "Operating Account." In
13 the event that, after the date of this Order, CWGI or
14 Washguy receives funds or assets other than for royalty
15 payments or marketing fees described above or for franchisee
16 fees described below, Defendants shall deposit such funds
17 into the Operating Account, but shall not withdraw such
18 funds or assets unless: 1) needed to pay for reasonable,
19 usual, ordinary, and necessary business expenses and
20 reasonable attorney's fees, and 2) counsel for the
21 Commission has been notified in writing of the source of
22 such funds, including the identity of the person paying such
23 funds and reason for payment, and has been provided with an
24 opportunity to object to such withdrawal.

25 E. Provided Defendants have otherwise complied with
26 the terms of this Order, including Paragraphs I through IV
27 above relating to the advertising, offering for sale, or
28 sale of franchises, Defendants shall deposit any payments

1 they receive from prospective franchisees for initial
2 franchise fees into an account identified in writing to
3 counsel for the Commission. Such account must be separate
4 from any account used by Defendants Winslow and Portney for
5 personal expenses and from the Operating Account described
6 above. Within five (5) business days after establishing
7 such an account, Defendants shall report in writing the
8 account used to deposit such franchise fees, and the amount
9 and source of the funds deposited, including the identity of
10 the franchisee paying such funds, a copy of the disclosure
11 document provided to such franchisee, and a copy of the
12 franchisee's signed acknowledgment of receipt. Subsequent
13 to this initial report, within five (5) business days after
14 receiving a monthly banking statement for the identified
15 account, Defendants shall provide a written report to
16 counsel for the Commission identifying the source of any
17 funds deposited to such account, including the identity of
18 the franchisee providing the funds, a copy of the disclosure
19 document provided to such franchisee, and a copy of the
20 franchisee's signed acknowledgment of receipt. The report
21 shall also include a copy of the banking statement and
22 canceled checks for that month. During the pendency of this
23 litigation, Defendants are prohibited from making any cash
24 withdrawals from this account or writing checks from this
25 account; *provided however*, that checks may be written to
26 return payment to the franchisee providing the funds or to
27 transfer up to \$3,000 of a franchisee's initial franchisee
28 fee to the Operating Account described above if such a

1 transfer is necessary to pay for services promised to such
2 franchisee;

3 F. Except as provided above, all other existing or
4 after-acquired assets owned by Defendants CWGI or Washguy
5 shall remain frozen, including, but not limited to, assets
6 identified in financial statements and tax returns provided
7 by Defendants to the Commission; *provided however,*
8 Defendants CWGI or Washguy may withdraw up to \$500 in assets
9 located in existing bank accounts held in their name, or the
10 entire balance of the bank accounts if such accounts amount
11 to less than \$500, upon notice to the Commission, to pay for
12 reasonable, usual, ordinary, and necessary business
13 expenses.

14 G. It shall be a violation of this Order for
15 Defendants Winslow or Portney to request or direct any
16 franchisee or other person to provide payment for any
17 services or obligations related to the activities or
18 operation of the corporate defendants CWGI and Washguy to
19 anyone other than the corporate defendants or to request
20 payment for such services or obligations in cash, unless the
21 cash is immediately deposited into the Operating Account
22 described above.

23 The funds, property and assets affected by this
24 Paragraph shall include both existing assets and assets
25 acquired after the effective date of this Order, including
26 without limitation those acquired by loan or gift. Each
27 defendant shall hold and account for such property and
28 assets and payments received by them, including without

1 limitation, payments, loans, and gifts. The parties may
2 petition the Court for modification of this Paragraph if a
3 change in facts or circumstances warrants such modification.

4
5 **PRESERVATION OF RECORDS**

6 **VI.**

7 **IT IS FURTHER ORDERED** that defendants CWGI, Washguy,
8 Winslow, and Portney, and each of them, and their officers,
9 directors, agents, servants, employees, salespersons,
10 franchise brokers, corporations, subsidiaries, affiliates,
11 successors, assigns, and other entities or persons directly
12 or indirectly under their control, and all persons in active
13 concert or participation with them who receive actual notice
14 of this Order by personal service, facsimile or otherwise,
15 are hereby preliminarily restrained and enjoined from:

16 A. Failing to create and maintain books, records, and
17 accounts which, in reasonable detail, accurately, fairly,
18 and completely reflect the incomes, disbursements,
19 dispositions, transactions, and the use of monies, funds, or
20 other assets by any of the defendants, beginning as of the
21 time this Order is entered;

22 B. Destroying, erasing, mutilating, concealing,
23 altering, transferring, or otherwise disposing of, in any
24 manner, directly or indirectly, any documents that relate to
25 the business practices or business or personal finances of
26 any defendant, or to the business practices or finances of
27 entities directly or indirectly under the control of any
28 defendant, including but not limited to the following

1 documents: documents reflecting any defendant's interest in
2 or title to any asset; contracts; franchise disclosure
3 documents; Uniform Franchise Offering Circulars; franchise
4 agreements; correspondence; email sent or received; Internet
5 and bulletin board postings; electronically stored data;
6 advertisements; brochures or promotional materials;
7 operating manuals; franchisee lists or files; handwritten
8 notes; telephone logs and records; audio or videotape
9 recordings; receipt books; invoices; postal receipts;
10 ledgers; payroll records; personal and business canceled
11 checks; check registers; bank statements or other banking
12 records; appointment books; copies of federal, state or
13 local business or personal income or property tax returns;
14 documents relating to any legal proceeding involving any
15 defendant; and documents reflecting or concerning state or
16 federal franchise registrations, law, or requirements; and
17 C. Creating, operating, or exercising any control over
18 any new business entity, including any partnership, sole
19 proprietorship or corporation, without first providing the
20 Commission with a written statement disclosing: (1) the name
21 of the business entity; (2) the address and telephone number
22 of the business entity; (3) the names of the business
23 entity's officers, directors, principals, managers, and
24 employees; and (4) a detailed description of the business
25 entity's intended activities.

26 **DUTIES OF ASSET HOLDERS**

27 **VII.**

28 **IT IS FURTHER ORDERED** that, pending resolution of this

1 litigation, any bank, savings and loan institution, credit
2 union, financial institution, brokerage house, escrow agent,
3 IRA custodian, money market or mutual fund, title company,
4 commodity trading company, storage company, trustee,
5 commercial mail receiving agency, mailing holding or
6 forwarding company, or any other business entity or person
7 served with a copy of this Order, or who otherwise has
8 actual knowledge of this Order, and having custody or
9 control of any account, asset or documents of defendants
10 CWGI, Washguy, Winslow, or Portney, or any corporation,
11 partnership, or other entity directly or indirectly owned,
12 managed, or controlled, or under common control with any
13 defendant, or that at any time since January 1, 1997, has
14 maintained or had custody of such account, asset, or
15 documents, shall:

16 A. Hold and retain within such entity's or person's
17 control, and prohibit the withdrawal, removal, assignment,
18 transfer, pledge, hypothecation, encumbrance, disbursement,
19 dissipation, conversion, sale, liquidation, or other
20 disposal of any funds, documents, property, or other assets
21 held:

22 1. on behalf of, for the benefit of, defendants
23 CWGI, Washguy, Winslow, or Portney;

24 2. in any account maintained in the name of, or
25 subject to withdrawal by, defendants CWGI, Washguy,
26 Winslow, or Portney; or

27 3. that are subject to access or use by
28 defendants CWGI, Washguy, Winslow, or Portney;

1 B. Deny Defendants access to any safe deposit box
2 that is:

3 1. Titled in the name of Defendants CWGI,
4 Washguy, Winslow, or Portney, either individually or
5 jointly; or

6 2. Otherwise subject to access by defendants
7 CWGI, Washguy, Winslow, or Portney;

8 C. Provide counsel for the Commission, within five
9 (5) business days after the service date of this Order,
10 unless such statement has previously been provided, a
11 statement setting forth:

12 1. The identification of each account or asset
13 titled in the name, individually or jointly, or held on
14 behalf of, or for the benefit of, whether in whole or
15 in part, defendants CWGI, Washguy, Winslow, or Portney,
16 including all trust accounts managed on behalf of
17 defendants CWGI, Washguy, Winslow, or Portney, or
18 subject to control by defendants CWGI, Washguy,
19 Winslow, or Portney;

20 2. The balance of each such account, or a
21 description of the nature and value of such asset as of
22 the close of business on the day on which this Order is
23 served, and, if any asset valued at over \$1,000 has
24 been removed or transferred within the last 90 days,
25 the date removed or transferred, the total funds
26 removed or transferred, and the name of the person or
27 entity to whom such account or other asset was
28 remitted;

1 3. The identification of any safe deposit box
2 that is either titled in the name, individually or
3 jointly, or is otherwise subject to access or control
4 by CWGI, Washguy, Winslow, or Portney; and

5 4. If the account, safe deposit box, or other
6 asset has been closed or removed at any time after
7 January 1, 1997, the date closed or removed, the total
8 funds removed to close the account, and the name of the
9 person or entity to whom such account or other asset
10 was remitted;

11 D. Upon the Commission's request, promptly provide
12 the Commission with copies of or the right to inspect and
13 copy all records or other documentation pertaining to such
14 accounts or assets, including but not limited to originals
15 or copies of account applications, account statements,
16 signature cards, checks, drafts, deposit tickets, transfers
17 to and from the accounts, all other debit and credit
18 instruments or slips, currency transaction reports, 1099
19 forms, and safe deposit box logs; and

20 E. The accounts subject to this provision include
21 existing assets and assets deposited after the effective
22 date of this Order. *Provided further*, that this Paragraph
23 shall not prohibit transfers in accordance with any
24 provision of this Order, or any further Order of the Court.

25 **COMPLETION AND UPDATING OF FINANCIAL REPORTS**

26 **VIII.**

27 **IT IS FURTHER ORDERED** that, upon request of the
28 Commission, Defendants shall provide supporting

1 documentation relating to any information described on
2 Defendants' Financial Statements and accompanying tax
3 returns provided to the Commission and shall also provide,
4 upon request of the Commission, supporting documentation or
5 a sworn statement describing why certain financial
6 information is not reflected in Defendants' Financial
7 Statements. Defendants shall also consent to any accountant
8 identified in Defendants' Financial Statements or tax
9 returns providing the Commission with any documents in the
10 accountants' possession relating to Defendants. Defendants
11 shall provide such documentation or supporting information
12 to the Commission within five (5) business days of such
13 request. Pending determination of the Commission's
14 Complaint, Defendants shall report any material changes in
15 financial condition or any information learned or obtained
16 that renders the financial statements inaccurate,
17 incomplete, or in error.

18 **REPATRIATION OF ASSETS AND DOCUMENTS**
19 **LOCATED IN FOREIGN COUNTRIES**

20 **IX.**

21 **IT IS FURTHER ORDERED** that within five (5) business
22 days following service of this Order, defendants CWGI,
23 Washguy, Winslow, and Portney, whether acting through any
24 trust, corporation, subsidiary, division, or other device,
25 shall:

26 A. Take such steps as are necessary to transfer to
27 the territory of the United States of America all documents
28 and assets that are located outside of such territory and

1 are held by or for Defendants or are under Defendants'
2 direct or indirect control, jointly or individually;

3 B. On the same business day as any repatriation under
4 Subparagraph IX(A) above, (1) notify counsel for the
5 Commission of the name and location of the financial
6 institution or other entity that is the recipient of such
7 funds, documents, or assets; and (2) serve this Order on any
8 such financial institution or other entity;

9 C. Provide the Commission with a full accounting of
10 all funds, documents and assets that are located outside of
11 the territory of the United States held either: (1) by them;
12 (2) for their benefit; or (3) under their direct or indirect
13 control, jointly or individually, and including the names
14 and addresses of any financial institutions or other
15 entities holding the assets, along with the account numbers
16 and balances;

17 D. Hold and retain all transferred documents and
18 assets and prevent any transfer, disposition, or dissipation
19 whatsoever of any such documents, assets or funds; and

20 E. Provide Plaintiff access to Defendants' records
21 and documents held by financial institutions or other
22 entities outside the territorial United States, by signing
23 the Consent to Release of Financial Records attached hereto
24 as Attachment A.

25 **PRODUCTION OF DEFENDANTS' BUSINESS RECORDS**

26 **X.**

27 **IT IS FURTHER ORDERED** that within ten (10) business
28 days after the date of this Order, Defendants shall produce

1 non-privileged business records within their possession,
2 custody, or control, for inspection and photocopying by the
3 Commission. The parties shall arrange a mutually agreeable
4 place of production.

5 A. These business records are to include: 1) all
6 financial and accounting records pertaining to Defendants'
7 business operation, including checking and bank statements,
8 ledgers, payroll records, records of royalty payments and
9 franchise fee payments, payments to or from any supplier,
10 and any other reports or records reflecting Defendants'
11 receipt or use of funds received from franchisees or
12 otherwise received as part of Defendants' business
13 operation, or reflecting assets held by Defendants' for use
14 in their business operation, including records reflecting
15 ownership or interest in any vehicles or other equipment; 2)
16 all documents containing the name, address, or telephone
17 number or otherwise identifying any person who has purchased
18 a franchise from Defendants and the amount of any payments
19 made by such person and all executed franchise agreements;
20 3) all other contracts relating to Defendants' business
21 operation, including contracts relating to national accounts
22 or contracts with suppliers or equipment providers; 4) all
23 correspondence with or concerning Defendants' business
24 operation, including correspondence with any franchisee,
25 state agency, supplier or equipment provider, accountant,
26 employee or contractor, or any correspondence generally
27 pertaining to franchising, including any email
28 correspondence; 5) all documents relating to the actual or

1 projected income of any of Defendants' franchisees or of any
2 mobile car care operation with which Defendants are
3 associated; 6) all documents Defendants claim substantiate
4 or support any actual or alleged earnings claims made by
5 Defendants; 7) each different version of a Uniform Franchise
6 Offering Circular or other franchise disclosure document
7 Defendants have distributed; 8) each different version of
8 any promotional or informational material Defendants have
9 distributed to prospective franchisees or other interested
10 persons; 9) all information Defendants have placed on the
11 Internet concerning their business operation or franchises,
12 including postings to bulletin boards, forums, or Web pages;
13 and 10) either paper copies or electronic copies of all
14 business records, not otherwise described above, that
15 Defendants maintain on a computer, and including an
16 identification of the software used in connection with
17 maintaining such records. Defendants need not provide
18 duplicate copies of any documents previously provided to the
19 Commission;

20 B. To the extent Defendants maintain possession,
21 custody, or control of other business records not described
22 or produced in connection with Subparagraph X(A) above,
23 Defendants shall, at the same time they produce the records
24 described above, provide counsel for the Commission with a
25 statement describing generally each category of documents
26 that Defendants' have not produced, the content of such
27 records, and the physical location at which such records are
28 maintained. Defendants shall produce these additional

1 business records for copying and inspection by the
2 Commission upon five (5) business days notice.

3 **CONSUMER CREDIT REPORTS**

4 **XI.**

5 **IT IS FURTHER ORDERED** that pursuant to Section
6 604(a)(1) of the Fair Credit Reporting Act, 15 U.S.C. §
7 1681b(a)(1), any credit reporting agency may furnish
8 Plaintiff with a report concerning any defendant.

9 **SERVICE OF THIS ORDER**

10 **XII.**

11 **IT IS FURTHER ORDERED** that:

12 A. Plaintiff's agents or employees may serve this
13 Order upon any financial institution, Internet service
14 provider, or other entity or person that may have
15 possession, custody, control, or knowledge of any documents
16 or assets of any defendant, or any other entity or person
17 that may be otherwise subject to any provision of this
18 Order, by delivering a copy of the Order by any means,
19 including facsimile transmission, to any office, branch, or
20 location; and

21 B. For purposes of service on anyone in possession of
22 records, assets, property, or property rights, actual notice
23 of this Order shall be deemed complete upon notification by
24 any means, including facsimile.

25 **DISTRIBUTION OF ORDER BY DEFENDANTS**

26 **XIII.**

27 **IT IS FURTHER ORDERED** that Defendants shall immediately
28 provide a copy of this Order to each affiliate, subsidiary,

1 division, sales entity, franchise broker, successor, assign,
2 officer, director, employee, independent contractor, agent,
3 attorney, and representative, and shall, within ten (10)
4 days from the date of entry of this Order, serve upon
5 counsel for the Commission a sworn statement describing the
6 manner in which Defendants have complied with this provision
7 of the Order, which statement shall include the names and
8 addresses of each such person or entity who received a copy
9 of the Order.

10 **RESTRICTION ON FILING LAWSUITS AGAINST CURRENT FRANCHISEES**

11 **XIV.**

12 **IT IS FURTHER ORDERED** that, pending resolution of this
13 litigation, and because of the fact that the outcome of this
14 litigation may have a significant impact on the legal rights
15 between Defendants and their franchises, Defendant shall not
16 file any new lawsuit or legal action against any of their
17 existing franchisees without prior notice to and consent of
18 this Court.

19 **NOTIFICATION TO COMMISSION**

20 **XV.**

21 All notices required to be served upon counsel for the
22 Commission pursuant to this Order shall be sent to the
23 following address: Elizabeth Grant, Division of Marketing
24 Practices, Federal Trade Commission, 600 Pennsylvania Ave.,
25 NW, Room H238, Washington, DC 20580.

1 COURT'S RETENTION OF JURISDICTION

2 XVI.

3 IT IS FURTHER ORDERED that this Court shall retain
4 jurisdiction of this matter for all purposes.

5 IT IS SO ORDERED, this ____ day of _____,
6 2000, at _____ o'clock ____ m.

7
8
9
10 _____
Audrey Collins
United States District Judge

11 The parties hereby consent to the terms and conditions
12 set forth above and hereby consent to entry of this
13 Stipulated Preliminary Injunction at the Court's
14 convenience and without further notice to the
15 parties.
16

17 DEFENDANTS

PLAINTIFF

18 _____
19 Lance Winslow, III
Appearing Pro Se and on behalf
20 of, as the sole officer and
director of, Defendants
The Car Wash Guys,
21 Intl., Inc,
and Wash Guy.Com, Inc.
22 43750 Carmel Circle
Palm Desert, CA 92550
23 1-888-927-4489 (phone)

Elizabeth M. Grant
Marc M. Groman
Attorneys for Plaintiff
Federal Trade Commission
600 Pennsylvania Ave. NW
Room H238
Washington, DC 20580
(202) 326-3299 (phone)
(202) 326-3395 (fax)

24
25 _____
26 Michelle Portney
Appearing Pro Se
individually
27 43750 Carmel Circle
Palm Desert, CA 92550
28 1-888-927-4489 (phone)

1
2 **ATTACHMENT A**

3 **CONSENT TO RELEASE OF FINANCIAL RECORDS**
4

5 I, _____, of the State of _____
6 in the United States of America, do hereby direct any bank or
7 trust company at which I have a bank account of any kind or at
8 which a corporation has a bank account of any kind upon which I
9 am authorized to draw, and its officers, employees and agents, to
10 disclose all information and deliver copies of all documents of
11 every nature in your possession or control which relate to the
12 said bank accounts to any attorney of the Federal Trade
13 Commission, and to give evidence relevant thereto, in the matter
14 of FTC v. Car Wash Guys International, Inc., et al., now pending
15 in the United States District Court for the Central District of
16 California, and this shall be irrevocable authority for so doing.
17 This direction is intended to apply to the laws of countries
18 other than the United States which restrict or prohibit the
19 disclosure of bank information without the consent of the holder
20 of the account, and shall be construed as consent with respect
21 thereto, and the same shall apply to any of the bank accounts for
22 which I may be the relevant principal.
23

24 Dated: _____, 2000 _____
25
26
27
28