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13 Federal Trade Commission

14 **IN THE UNITED STATES DISTRICT COURT**
15 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

16 **Federal Trade Commission,**

17 Plaintiff,

18 vs.

19 **Digital Altitude LLC, et al.,**

20 Defendants.

No. LA CV18-00729 JAK (MRWx)

JOINT REPORT AND
APPLICATION FOR ENTRY OF
STIPULATED ORDER FOR
PERMANENT INJUNCTION AND
MONETARY JUDGMENT AS TO
DEFENDANT MICHAEL FORCE

21
22 Plaintiff Federal Trade Commission (“FTC”) and Defendant Michael Force
23 respectfully submit this report and ask this Court to enter the attached proposed
24 Stipulated Order for Permanent Injunction and Monetary Judgment (attached
25 hereto as Exhibit A). The attached proposed Stipulated Order for Permanent
26 Injunction and Monetary Judgment has been agreed to and signed by the FTC and
27 Defendant Michael Force, and will resolve this matter as to Defendant Michael
28 Force.

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Respectfully submitted,

ALDEN F. ABBOTT
General Counsel

Dated: February 27, 2019

/s/

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FEDERAL TRADE COMMISSION

Dated: February 27, 2019



Michael Force

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CERTIFICATE OF SERVICE

I hereby certify that on February 28, 2019, I electronically filed the foregoing Joint Report and Application for Entry of Stipulated Order for Permanent Injunction and Monetary Judgment as to Defendant Michael Force with the Clerk of the Court using CM/ECF, and caused a copy of the same to be served on all non-defaulted parties in the manner specified below:

Via CM/ECF:

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*Attorney for Defendant Thermography
for Life, LLC, also d/b/a Living
Exceptionally, Inc.*

/s/ Laura Basford
Laura Basford

Exhibit A

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**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

Federal Trade Commission,
Plaintiff,
vs.
Digital Altitude LLC, et al.,
Defendants.

No. 2:18-CV-0729 JAK (MRWx)
STIPULATED ORDER FOR
PERMANENT INJUNCTION AND
MONETARY JUDGMENT AGAINST
MICHAEL FORCE

This matter comes before the court upon the stipulation of Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), and Settling Defendant Michael Force (“Force” or “Settling Defendant”) for the entry of a Permanent Injunction against Settling Defendant.

On January 29, 2018, the FTC filed its Complaint for a Permanent Injunction And Other Relief pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b) (Docket No. 1). Pursuant to Fed. R. Civ. P. 65(b), the FTC also filed an ex parte application for a temporary restraining order, asset freeze, other equitable relief, and an order to show cause why a preliminary injunction should not issue against Digital Altitude LLC, Digital Altitude Limited, Aspire Processing LLC, Aspire Processing Limited, Aspire Ventures Ltd, Disc Enterprises Inc., RISE Systems & Enterprise LLC (Utah), RISE Systems & Enterprise LLC (Nevada), Soar International Limited Liability

1 Company, The Upside, LLC, Thermography for Life, LLC, also d/b/a Living
2 Exceptionally, Inc., Michael Force, Mary Dee, Morgan Johnson, Alan Moore, and
3 Sean Brown (collectively, “Defendants”). Docket No. 5.

4 The Court granted the application, issuing a temporary restraining order
5 (“TRO”) on February 1, 2018, including an asset freeze, appointment of a receiver,
6 immediate access to Defendants’ business premises, and other temporary relief.
7 Docket No. 34. The TRO also ordered Defendants to appear on February 15, 2018
8 and show cause why a preliminary injunction should not issue against them. The
9 parties stipulated to a continuance of the show cause hearing and the court granted
10 that request, extending the TRO and continuing the hearing to March 5, 2018.
11 Docket No. 61. At the close of the hearing on March 6, 2018, the Court entered a
12 preliminary injunction against Settling Defendant for the duration of this litigation.
13 Docket No. 108. The Court later reduced the order to writing. Docket No. 111. The
14 Commission and Settling Defendant now stipulates to the entry of this Stipulated
15 Order for Permanent Injunction and Monetary Judgment (“Order”) to resolve all
16 matters in dispute in this action between them.

17 THEREFORE, IT IS ORDERED as follows:

18 **FINDINGS**

- 19 A. This Court has jurisdiction over this matter.
20 B. The Complaint charges that Settling Defendant participated in
21 deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45.
22 C. Settling Defendant neither admits nor denies any of the allegations in
23 the Complaint, except as specifically stated in this Order. Only for purposes of this
24 action, Settling Defendant admits the facts necessary to establish jurisdiction.
25 D. Settling Defendant waives any claim that he may have under the
26 Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this
27 action through the date of this Order, and agrees to bear his own costs and attorney
28 fees.

1 E. Settling Defendant and the Commission waive all rights to appeal or
2 otherwise challenge or contest the validity of this Order.

3 **DEFINITIONS**

4 For the purpose of this Order, the following definitions apply:

5 A. **“Acquirer”** or **“Acquiring Bank”** means a business organization,
6 Financial Institution, or an agent of a business organization or Financial Institution
7 that has authority from an organization that operates or licenses a credit card
8 system (e.g., Visa, MasterCard, American Express or Discover) to authorize
9 Merchants to accept, transmit, or process payment by credit card through the credit
10 card system for money, products, or anything else of value.

11 B. **“Business Coaching Program”** means any program, plan, or product,
12 including those related to work-at-home-opportunities, that is represented,
13 expressly or by implication, to train or teach a participant or purchaser how to
14 establish a business or earn money or other consideration through a business or
15 other activity.

16 C. **“Corporate Defendants”** means Digital Altitude LLC; Digital
17 Altitude Limited; Aspire Processing LLC; Aspire Processing Limited; Aspire
18 Ventures Ltd; Disc Enterprises Inc.; RISE Systems & Enterprise LLC (Utah); RISE
19 Systems & Enterprise LLC (Nevada); Soar International Limited Liability
20 Company; The Upside, LLC; Thermography for Life, LLC, d/b/a Living
21 Exceptionally, Inc., and each of their subsidiaries, affiliates, successors, and
22 assigns.

23 D. **“Credit Card Laundering”** means: (a) presenting or depositing into,
24 or causing or allowing another to present or deposit into, the credit card system for
25 payment, a Credit Card Sales Draft generated by a transaction that is not the result
26 of a credit card transaction between the cardholder and the Merchant; (b)
27 employing, soliciting, or otherwise causing or allowing a Merchant, or an
28 employee, representative, or agent of a Merchant, to present to or deposit into the

1 credit card system for payment, a Credit Card Sales Draft generated by a
2 transaction that is not the result of a credit card transaction between the cardholder
3 and the Merchant; or (c) obtaining access to the credit card system through the use
4 of a business relationship or an affiliation with a Merchant, when such access is not
5 authorized by the Merchant Account agreement or the applicable credit card
6 system.

7 E. **“Credit Card Sales Draft”** means any record or evidence of a credit
8 card transaction.

9 F. **“Defendant(s)”** means all of the Individual Defendants and the
10 Corporate Defendants, individually, collectively, or in any combination.

11 G. **“Financial Institution”** means any institution the business of which is
12 engaging in financial activities as described in section 4(k) of the Bank Holding
13 Company Act of 1956 (12 U.S.C. § 1843(k)). An institution that is significantly
14 engaged in financial activities is a Financial Institution.

15 H. **“Individual Defendant(s)”** means Michael Force, Mary Dee,
16 Morgan Johnson, Alan Moore, and Sean Brown.

17 I. **“Investment Opportunity”** means anything, tangible or intangible,
18 that is offered, offered for sale, sold, or traded based wholly or in part on
19 representations, either express or implied, about past, present, or future income,
20 profit, or appreciation.

21 J. **“Merchant”** means (a) any Person or entity engaged in the sale or
22 marketing of any goods or services, or soliciting a charitable contribution, or (b)
23 any Person or entity who applies for or obtains Payment Processing services.

24 K. **“Merchant Account”** means any account with an Acquiring Bank or
25 other Financial Institution, service provider, payment processor, independent sales
26 organization, or other entity that enables an individual, a business, or other
27 organization to accept payments of any kind.

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1 L. “**Non-Settling Defendants**” means Digital Altitude LLC; Digital
2 Altitude Limited; Aspire Processing LLC; Aspire Processing Limited; Aspire
3 Ventures Ltd; Disc Enterprises Inc.; RISE Systems & Enterprise LLC (Utah);
4 RISE Systems & Enterprise LLC (Nevada); Soar International Limited Liability
5 Company; Thermography for Life, LLC, also d/b/a Living Exceptionally, Inc., and
6 The Upside, LLC; and each of their subsidiaries, affiliates, successors, and assigns,
7 as well as Mary Dee, Sean Brown, Alan Moore, and Morgan Johnson.

8 M. “**Payment Processing**” means providing a Person, directly or
9 indirectly, with the means used to charge or debit accounts through the use of any
10 payment method or mechanism, including, but not limited to, remotely created
11 payment orders, remotely created checks, ACH debits, or debit, credit, prepaid, or
12 stored value cards. Whether accomplished through the use of software or
13 otherwise, Payment Processing includes, among other things: (a) reviewing and
14 approving Merchant applications for payment processing services; (b) providing
15 the means to transmit sales transactions data from Merchants to Acquiring Banks
16 or other Financial Institutions; (c) clearing, settling, or distributing proceeds of
17 sales transactions from Acquiring Banks or Financial Institutions to Merchants; or
18 (d) processing chargebacks or returned remotely created payment orders, remotely
19 created checks, or ACH checks.

20 N. “**Person**” means a natural person, organization, or other legal entity,
21 including a corporation, limited liability company, partnership, proprietorship,
22 association, cooperative, government or governmental subdivision or agency, or
23 any other group or combination acting as an entity.

24 O. “**Receiver**” means the receiver appointed in Section IV. J of the
25 Preliminary Injunction (Docket No. 111) and any deputy receivers that shall be
26 named by the receiver.

27 P. “**Settling Defendant**” means Michael Force.
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ORDER

I. PROHIBITIONS RELATED TO THE SALE OF BUSINESS COACHING PROGRAMS AND INVESTMENT OPPORTUNITIES

IT IS ORDERED that the Settling Defendant is permanently restrained and enjoined from:

A. Creating, advertising, marketing, promoting, offering for sale, or selling, or assisting others in creating, advertising, marketing, promoting, offering for sale, or selling any Business Coaching Program or any Investment Opportunity;

B. Holding, directly or through a third-Person, any ownership or other financial interest in any business entity that is creating, advertising, marketing, promoting, offering for sale, or selling, or that assists others in creating, advertising, marketing, promoting, offering for sale, or selling any Business Coaching Program, any Investment Opportunity, or any product to assist in the creation or development of a Business Coaching Program or an Investment Opportunity.

II. PROHIBITIONS RELATED TO MERCHANT ACCOUNTS

IT IS FURTHER ORDERED that Settling Defendant is permanently restrained and enjoined from:

A. Credit Card Laundering;

B. Making, or assisting others in making, directly or by implication, any false or misleading statement in order to obtain Payment Processing services;

C. Failing to disclose to an Acquiring Bank or other Financial Institution, service provider, payment processor, independent sales organization, or other entity that enables a Person to accept payments of any kind any material information related to a Merchant Account including, but not limited to, the identity of any owner, manager, director, or officer of the applicant for or holder of a Merchant Account, and any connection between an owner, manager, director, or officer of the applicant for or holder of a Merchant Account and any third person who has been

1 or is placed in a Merchant Account monitoring program, had a Merchant Account
2 terminated by a payment processor or a Financial Institution, or has been fined or
3 otherwise disciplined in connection with a Merchant Account by a payment
4 processor or a Financial Institution; and

5 D. Engaging in any tactics to circumvent fraud and risk monitoring
6 programs established by any Financial Institution, Acquiring Bank, or the operators
7 of any payment system, including, but not limited to, tactics such as balancing or
8 distributing sales transactions among multiple Merchant Accounts or merchant
9 billing descriptors; splitting a single sales transaction into multiple smaller
10 transactions; or using a shell company to apply for a Merchant Account.

11 **III. PROHIBITION AGAINST MISREPRESENTATIONS**

12 **IT IS FURTHER ORDERED** that Settling Defendant, his officers, agents,
13 employees, and attorneys, and all other Persons in active concert or participation
14 with any of them, who receive actual notice of this Order, whether acting directly
15 or indirectly, in connection with the advertising, marketing, promoting, or offering
16 for sale of any good or service, are permanently restrained and enjoined from
17 misrepresenting or assisting others in misrepresenting, expressly or by implication,
18 any material fact, including, but not limited to:

19 A. Consumers who purchase Settling Defendant's goods or services will
20 earn or are likely to earn substantial income;

21 B. Consumers who purchase Settling Defendant's goods or services will
22 receive business coaching that will provide what the consumers need to build a
23 successful online business; and

24 C. Any other fact material to consumers concerning any good or service,
25 such as: the total costs; any refund policy; any material restrictions, limitations, or
26 conditions; or any material aspect of its performance, efficacy, nature, or central
27 characteristics.

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1 **IV. MONETARY JUDGMENT AND PARTIAL SUSPENSION**

2 A. Judgment in the amount of Fifty-Four Million Dollars (\$54,000,000)
3 is entered in favor of the Commission against Settling Defendant as equitable
4 monetary relief.

5 B. CitiBank, N.A., is ordered, within seven (7) days of entry of this
6 Order, to transfer all funds (totaling approximately \$36,400) held in the following
7 accounts to the Commission by electronic fund transfer in accordance with
8 instructions provided by a representative of the Commission: Account No.
9 xxxxxxx1102, held in the name of Dalila Fazai and Michael Roy Force; Account
10 No xxxxxxx1094, held in the name of Dalila Fazai and Michael Roy Force.

11 C. Wells Fargo Bank, N.A., is ordered, within seven (7) days of entry of
12 this Order, to transfer all funds (totaling approximately \$13,400) held in the
13 following account to the Commission by electronic fund transfer in accordance
14 with instructions provided by a representative of the Commission: Account No.
15 xxxxxx7556, held in the name of Michael Force; Account No. xxxxxx0376, held in
16 the name of Dalila Fazai and Michael Force.

17 D. Settling Defendant is ordered to fully cooperate with CitiBank, N.A.,
18 and Wells Fargo Bank, N.A., including promptly signing any Document necessary
19 or appropriate to transfer such funds to the Commission.

20 E. In addition to the transfers specified above, immediately upon entry of
21 this Order, Settling Defendant is ordered to surrender to the Commission all
22 control, title, dominion, and interest each has to the following assets:

23 1. The 2018 Jeep automobile titled in the name of Michael R. Force and
24 bearing VIN: 1C4BJWFG4JL808137;

25 2. The 2017 Zero motorcycle titled in the name of Michael Force and
26 bearing VIN: 538SDBZ68HCG08207;

27 3. The 2017 Zero motorcycle titled in the name of Michael Force and
28 bearing VIN: 538SMCZ6XHCG07436;

1 4. The 2016 Ducati motorcycle titled in the name of Michael Force and
2 bearing VIN: ZDM13BKW5GB001169;

3 5. All interest the Settling Defendant has in funds in any accounts in the
4 name of the Corporate Defendants;

5 6. All interest the Settling Defendant has in funds in any accounts in the
6 name of all other Receivership Entities;

7 7. All cash held by the Receiver;

8 8. All assets owned by the Corporate Defendants and the Receivership
9 Entities, including any real, personal, or intellectual property, chattel, goods,
10 instruments, equipment, fixtures, general intangibles, effects, leaseholds, contracts,
11 mail, or other deliveries, shares or stock, securities, inventory, checks, notes,
12 accounts, credits, receivables, insurance policies, lines of credit, cash, trusts
13 (including asset protection trusts), lists of consumer names and reserve funds or
14 any other accounts associated with any payments processed by, or on behalf of,
15 any Corporate Defendants;

16 F. To the extent they are not already in the possession of the Receiver,
17 Settling Defendant shall deliver the assets identified in Subsection E above to the
18 Receiver's possession within 7 days of the entry of this Order.

19 G. The Receiver shall, as soon as practicable, commence the sale of the
20 unliquidated assets identified in Subsection E above and surrendered pursuant to
21 this Order using a commercially reasonable procedure. The Receiver shall hold the
22 surrendered assets, and the proceeds from the sale of the unliquidated assets, for
23 future transfer in accordance with further instructions from the Court.

24 H. Upon completion of all of the transfers listed above, the remainder of
25 the judgment is suspended, subject to Subsections I through Q, below.

26 I. The Commission's agreement to the suspension of part of the
27 judgment is expressly premised upon the truthfulness, accuracy, and completeness
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1 of Settling Defendant's sworn financial statements and related documents
2 (collectively, "financial representations") submitted to the Commission, namely:

- 3 1. the Financial Statement of Michael Force signed by Settling
4 Defendant on February 16, 2018, including the attachments;
- 5 2. the statement listing Settling Defendant's assets and accounts held
6 outside the United States signed by Settling Defendant on February 20, 2018;
- 7 3. the additional documentation submitted via email from Settling
8 Defendant's counsel Michael Raff to Commission counsel Andrew Hudson, Jody
9 Goodman and Laura Basford dated February 20, 2018, including Settling
10 Defendant's response to the FTC's subpoena;
- 11 4. the documentation submitted via secure file transfer from Settling
12 Defendant's counsel Michael Brandwein to Commission counsel Andrew Hudson
13 dated February 28, 2018, including additional financial documents from Settling
14 Defendant;
- 15 5. the documentation submitted via three separate emails from Settling
16 Defendant's counsel Michael Brandwein to Commission counsel Andrew Hudson,
17 Laura Basford, and Jody Goodman dated March 21, 2018, including Settling
18 Defendant's bank statements;
- 19 6. the documentation submitted via secure file transfer from Settling
20 Defendant's counsel Michael Brandwein to Commission counsel Andrew Hudson
21 dated March 22, 2018, including Settling Defendant's bank statements and other
22 information;
- 23 7. the documentation submitted via email from Settling Defendants'
24 counsel Bradley Gross to Commission counsel Andrew Hudson on May 10, 2018,
25 regarding Settling Defendant;
- 26 8. the documentation submitted via email from Settling Defendant's
27 counsel Michael Brandwein to Commission counsel Andrew Hudson, Laura
28

1 Basford, and Jody Goodman on May 16, 2018 at approximately 11:24 AM Eastern
2 time, including information on computer equipment;

3 9. the documentation submitted via email from Settling Defendant's
4 counsel Bradley Gross to Commission counsel Andrew Hudson on May 22, 2018,
5 including responses to questions and bank statements;

6 10. the information submitted via email by Settling Defendant to
7 Commission counsel Andrew Hudson, Laura Basford, and Jody Goodman on
8 August 10, 2018 at approximately 5:04 PM Eastern time, including information
9 regarding vehicles; and

10 11. the information submitted via email by Settling Defendant to
11 Commission counsel Andrew Hudson, Laura Basford, and Jody Goodman on
12 August 22, 2018 at approximately 3:21 PM Eastern time, including information
13 regarding vehicles.

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

19 K. If the suspension of the judgment is lifted, the judgment becomes
20 immediately due as to Settling Defendant in the amount specified in Subsection A
21 above (which the parties stipulate only for purposes of this Section represents the
22 consumer injury alleged in the Complaint), less any payment previously made
23 pursuant to this Section, and any payment(s) made by or on behalf of any Non-
24 Settling Defendant to the Commission pursuant to a Final Order in this action as to
25 such Non-Settling Defendant, plus interest computed from the date of entry of this
26 Order.

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1 L. Settling Defendant relinquishes dominion and all legal and equitable
2 right, title, and interest in all assets transferred pursuant to this Order and may not
3 seek the return of any assets.

4 M. The facts alleged in the Complaint will be taken as true, without
5 further proof, in any subsequent civil litigation by or on behalf of the Commission,
6 including in a proceeding to enforce its rights to any payment or monetary
7 judgment pursuant to this Order, such as a nondischargeability complaint in any
8 bankruptcy case.

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

13 O. Settling Defendant acknowledges that his Taxpayer Identification
14 Number (Social Security Number), which Settling Defendant previously submitted
15 to the Commission, may be used for collecting and reporting on any delinquent
16 amount arising out of this Order, in accordance with 31 U.S.C. §7701.

17 P. All money paid to the Commission pursuant to this Order may be
18 deposited into a fund administered by the Commission or its designee to be used
19 for equitable relief, including consumer redress and any attendant expenses for the
20 administration of any redress fund. If a representative of the Commission decides
21 that direct redress to consumers is wholly or partially impracticable or money
22 remains after redress is completed, the Commission may apply any remaining
23 money for such other equitable relief (including consumer information remedies)
24 as it determines to be reasonably related to Defendants' practices alleged in the
25 Complaint. Any money not used for such equitable relief is to be deposited to the
26 U.S. Treasury as disgorgement. Settling Defendant has no right to challenge any
27 actions the Commission or its representatives may take pursuant to this Subsection.
28

1 Q. The asset freeze is modified to permit the transfers identified in
2 subparts B through E of this Section. Upon completion of all such transfers, the
3 asset freeze is dissolved as to Settling Defendant.

4 **V. CUSTOMER INFORMATION**

5 **IT IS FURTHER ORDERED** that Settling Defendant, his officers, agents,
6 employees, and attorneys, and all other Persons in active concert or participation
7 with any of them, who receive actual notice of this Order, whether acting directly
8 or indirectly, are permanently restrained and enjoined from:

9 A. Failing to provide sufficient customer information to enable the
10 Commission to efficiently administer consumer redress. If a representative of the
11 Commission requests in writing any information related to redress, Settling
12 Defendant must provide it, in the form prescribed by the Commission, within 14
13 days; and

14 B. Disclosing, using, or benefitting from customer information, including
15 the name, address, birth date, telephone number, email address, credit card number,
16 bank account number, Social Security number, other identifying information, or
17 any data that enables access to a customer's account (including a credit card, bank
18 account, or other financial account), that any Defendant obtained prior to entry of
19 this Order in connection with any activity that pertains to the sale of money-
20 making opportunities and/or purported educational or coaching products or
21 services provided online; and

22 C. Failing to destroy such customer information in all forms in their
23 possession, custody, or control within 30 days after receipt of written direction to
24 do so from a representative of the Commission.

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

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1 **VI. COOPERATION**

2 **IT IS FURTHER ORDERED** that Settling Defendant must fully cooperate
3 with representatives of the Commission in this case and in any investigation related
4 to or associated with the transactions or the occurrences that are the subject of the
5 Complaint. Settling Defendant must provide truthful and complete information,
6 evidence, and testimony. Settling Defendant must appear for interviews, discovery,
7 hearings, trials, and any other proceedings that a Commission representative may
8 reasonably request upon 5 days written notice, or other reasonable notice, at such
9 places and times as a Commission representative may designate, without the
10 service of a subpoena.

11 **VII. ORDER ACKNOWLEDGMENTS**

12 **IT IS FURTHER ORDERED** that Settling Defendant obtain
13 acknowledgments of receipt of this Order:

14 A. Settling Defendant, within 7 days of entry of this Order, must submit
15 to the Commission an acknowledgment of receipt of this Order sworn under
16 penalty of perjury.

17 B. For 20 years after entry of this Order, Settling Defendant, for any
18 business that Settling Defendant, individually or collectively with any other
19 Defendants, is the majority owner or controls directly or indirectly, must deliver a
20 copy of this Order to: (1) all principals, officers, directors, and LLC managers and
21 members; (2) all employees having managerial responsibilities for conduct related
22 to the subject matter of the Order and all agents and representatives who participate
23 in conduct related to the subject matter of the Order; and (3) any business entity
24 resulting from any change in structure as set forth in the Section titled Compliance
25 Reporting. Delivery must occur within seven (7) days of entry of this Order for
26 current personnel. For all others, delivery must occur before they assume their
27 responsibilities.

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

4 **VIII. COMPLIANCE REPORTING**

5 **IT IS FURTHER ORDERED** that Settling Defendant make timely
6 submissions to the Commission:

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

9 1. Settling Defendant must: (a) identify the primary physical, postal, and
10 email address and telephone number, as designated points of contact, which
11 representatives of the Commission may use to communicate with Settling
12 Defendant; (b) identify all of Settling Defendant's businesses by all of their names,
13 telephone numbers, and physical, postal, email, and Internet addresses; (c) describe
14 the activities of each business, including the goods and services offered, the means
15 of advertising, marketing, and sales, and the involvement of any other Defendant
16 (which Settling Defendant must describe if he knows or should know due to his
17 own involvement); (d) describe in detail whether and how Settling Defendant is in
18 compliance with each Section of this Order; and (e) provide a copy of each Order
19 Acknowledgment obtained pursuant to this Order, unless previously submitted to
20 the Commission.

21 2. Additionally, Settling Defendant must: (a) identify all telephone
22 numbers and all physical, postal, email and Internet addresses, including all
23 residences; (b) identify all business activities, including any business for which
24 Settling Defendant performs services whether as an employee or otherwise and any
25 entity in which Settling Defendant has any ownership interest; and (c) describe in
26 detail Settling Defendant's involvement in each such business, including title, role,
27 responsibilities, participation, authority, control, and any ownership.

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1 B. For 20 years after entry of this Order, Settling Defendant must submit
2 a compliance notice, sworn under penalty of perjury, within 14 days of any change
3 in the following:

4 1. Settling Defendant must report any change in: (a) any designated
5 point of contact; or (b) the structure of any entity that Settling Defendant has any
6 ownership interest in or controls directly or indirectly that may affect compliance
7 obligations arising under this Order, including: creation, merger, sale, or
8 dissolution of the entity or any subsidiary, parent, or affiliate that engages in any
9 acts or practices subject to this Order.

10 2. Additionally, Settling Defendant must report any change in: (a) name,
11 including aliases or fictitious name, or residence address; or (b) title or role in any
12 business activity, including any business for which Settling Defendant performs
13 services whether as an employee or otherwise and any entity in which Settling
14 Defendant has any ownership interest, and identify the name, physical address, and
15 any Internet address of the business or entity.

16 C. Settling Defendant must submit to the Commission notice of the filing
17 of any bankruptcy petition, insolvency proceeding, or similar proceeding by or
18 against Settling Defendant within 14 days of its filing.

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

25 E. Unless otherwise directed by a Commission representative in writing,
26 all submissions to the Commission pursuant to this Order must be emailed to
27 DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to:
28 Associate Director for Enforcement, Bureau of Consumer Protection, Federal

1 Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The
2 subject line must begin: FTC v. Digital Altitude, et al. (Michael Force), No.
3 X180021.

4 **IX. RECORDKEEPING**

5 **IT IS FURTHER ORDERED** that Settling Defendant must create certain
6 records for 20 years after entry of the Order, and retain each such record for 5
7 years. Specifically, Settling Defendant for any business that Settling Defendant,
8 individually or collectively with any other Defendants, is a majority owner or
9 controls directly or indirectly, must create and retain the following records:

10 A. accounting records showing the revenues from all goods or services
11 sold;

12 B. personnel records showing, for each person providing services,
13 whether as an employee or otherwise, that person's: name; addresses; telephone
14 numbers; job title or position; dates of service; and (if applicable) the reason for
15 termination;

16 C. records of all consumer complaints and refund requests, whether
17 received directly or indirectly, such as through a third party, and any response;

18 D. all records necessary to demonstrate full compliance with each
19 provision of this Order, including all submissions to the Commission; and

20 E. a copy of each unique advertisement or other marketing material.

21 **X. COMPLIANCE MONITORING**

22 **IT IS FURTHER ORDERED** that, for the purpose of monitoring Settling
23 Defendant's compliance with this Order, including the financial representations
24 upon which part of the judgment was suspended, and any failure to transfer any
25 assets as required by this Order:

26 A. Within 14 days of receipt of a written request from a representative of
27 the Commission, Settling Defendant must: submit additional compliance reports
28 or other requested information, which must be sworn under penalty of perjury;

1 appear for depositions; and produce documents for inspection and copying. The
2 Commission is also authorized to obtain discovery, without further leave of court,
3 using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30
4 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

5 B. For matters concerning this Order, the Commission is authorized to
6 communicate directly with Settling Defendant. Settling Defendant must permit
7 representatives of the Commission to interview any employee or other person
8 affiliated with Settling Defendant who has agreed to such an interview. The person
9 interviewed may have counsel present.

10 C. The Commission may use all other lawful means, including posing,
11 through its representatives as consumers, suppliers, or other individuals or entities,
12 to Settling Defendant or any individual or entity affiliated with Settling Defendant,
13 without the necessity of identification or prior notice. Nothing in this Order limits
14 the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20
15 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

16 D. Upon written request from a representative of the Commission, any
17 consumer reporting agency must furnish consumer reports concerning Settling
18 Defendant, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C.
19 §1681b(a)(1).

20 **XI. RETENTION OF JURISDICTION**

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

23
24 **SO ORDERED this ___ day of _____, 2018.**

25
26 _____
27 JOHN A. KRONSTADT
28 DISTRICT COURT JUDGE

1 **SO STIPULATED AND AGREED:**

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3 **FOR PLAINTIFF: Federal Trade Commission**

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5

L Basford

Date: 2/28/19

6

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Laura Basford (DC Bar No. 993645)

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10990 Wilshire Boulevard, Suite 400

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Federal Trade Commission

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FOR SETTLING DEFENDANT: Michael Force

19

20

21

Date: _____

22

Michael Force

23

24

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1 **SO STIPULATED AND AGREED:**

2

3 **FOR PLAINTIFF: Federal Trade Commission**

4

5

Date: _____

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FOR SETTLING DEFENDANT: Michael Force

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21



Date: 10/9/2018

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Michael Force

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