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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 MARY DEE

21
22 Plaintiff Federal Trade Commission (“FTC”) and Defendant Mary Dee
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 Mary Dee, and will resolve this matter as to Mary Dee.
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Respectfully submitted,

ALDEN F. ABBOTT
General Counsel

Dated: February 28, 2019

/s/ Laura Basford

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Attorneys for Plaintiff
FEDERAL TRADE COMMISSION

Dated: February 28, 2019

/s/ Mary Dee (by permission)

Mary Dee

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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 Mary Dee 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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Court-Appointed Receiver*

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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
MARY DEE

This matter comes before the court upon the stipulation of Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), and Settling Defendant Mary Dee (“Dee” 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 stipulate 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 she 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 agree to bear her 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.

28

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); RISE
4 Systems & Enterprise LLC (Nevada); Soar International Limited Liability
5 Company; The Upside, LLC; Thermography for Life, LLC, also d/b/a Living
6 Exceptionally, Inc.; and each of their subsidiaries, affiliates, successors, and
7 assigns, as well as Michael Force, 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 Mary Dee.
28

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, provided that working as a licensed real estate broker or under the supervision of a licensed real estate broker is not a violation of this Section;

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

1 Account, and any connection between an owner, manager, director, or officer of the
2 applicant for or holder of a Merchant Account and any third person who has been
3 or is placed in a Merchant Account monitoring program, had a Merchant Account
4 terminated by a payment processor or a Financial Institution, or has been fined or
5 otherwise disciplined in connection with a Merchant Account by a payment
6 processor or a Financial Institution; and

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

13 **III. PROHIBITION AGAINST MISREPRESENTATIONS**

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

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

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

26 C. Any other fact material to consumers concerning any good or service,
27 such as: the total costs; any refund policy; any material restrictions, limitations, or
28

1 conditions; or any material aspect of its performance, efficacy, nature, or central
2 characteristics.

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

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

7 B. Wells Fargo Bank, N.A., is ordered, within 7 days of entry of this
8 Order, to transfer all funds (totaling approximately \$1,400) held in the following
9 account to the Commission by electronic fund transfer in accordance with
10 instructions provided by a representative of the Commission: Account No.
11 xxxxxx7299, held in the name of Mary Dee.

12 C. JPMorgan Chase Bank, N.A., is ordered, within 7 days of entry of this
13 Order, to transfer \$4,150 from the following accounts to the Commission by
14 electronic fund transfer in accordance with instructions provided by a
15 representative of the Commission: Account Nos. xxxxxx1660, and xxxxxx5019,
16 held in the name of Mary Dee and Robert Bell.

17 D. Capital One, N.A., is ordered, within 7 days of entry of this Order, to
18 transfer all funds (totaling approximately \$76,000) held in the following accounts
19 to the Commission by electronic fund transfer in accordance with instructions
20 provided by a representative of the Commission: Account Nos. xxxx0674,
21 xxxx3727, and xxxxxxxx5673, all held in the name of Mary Dee.

22 E. Capital One Investing, LLC is ordered, within 7 days of entry of this
23 Order, to transfer all funds (totaling approximately \$50,000) held in the following
24 account to the Commission by electronic fund transfer in accordance with
25 instructions provided by a representative of the Commission: Account No.
26 xxxxxx4782, held in the name of Mary Dee.

27 F. Settling Defendant is ordered to fully cooperate with Wells Fargo
28 Bank, N.A., Capital One, N.A., JPMorgan Chase Bank, N.A., and Capital One

1 Investing, LLC, including promptly signing any Document necessary or
2 appropriate to transfer such funds to the Commission.

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

6 1. All interest the Settling Defendant has in funds in any accounts in the
7 name of the Corporate Defendants;

8 2. All interest the Settling Defendant has in funds in any accounts in the
9 name of all other Receivership Entities;

10 3. All cash held by the Receiver;

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

19 H. To the extent they are not already in the possession of the Receiver,
20 Settling Defendant shall deliver the assets identified in Subsection G above to the
21 Receiver's possession within 7 days of the entry of this Order.

22 I. The Receiver shall, as soon as practicable, commence the sale of all
23 unliquidated assets surrendered pursuant to this Order using a commercially
24 reasonable procedure. The Receiver shall hold the surrendered assets, and the
25 proceeds from the sale of the unliquidated assets, for future transfer in accordance
26 with further instructions from the Court.

27 J. Upon completion of all of the transfers listed above, the remainder of
28 the judgment is suspended, subject to Subsections K through S, below.

1 K. The Commission’s agreement to the suspension of part of the
2 judgment is expressly premised upon the truthfulness, accuracy, and completeness
3 of Settling Defendant’s sworn financial statements and related documents
4 (collectively, “financial representations”) submitted to the Commission, namely:
5 1. the Financial Statement of Mary Dee signed by Defendant Dee on
6 February 20, 2018, including the attachments;
7 2. the documentation submitted via secure file transfer from Settling
8 Defendant’s then-counsel Michael Brandwein to Commission counsel Andrew
9 Hudson dated February 28, 2018, including additional financial documents from
10 Settling Defendant;
11 3. the information submitted via email from Settling Defendant’s then-
12 counsel Michael Brandwein to Commission counsel Andrew Hudson, Laura
13 Basford, and Jody Goodman on March 16, 2018 at approximately 5:23 PM Eastern
14 time, regarding Defendant Dee and bank accounts;
15 4. the documentation submitted via three separate emails from Settling
16 Defendant’s then-counsel Michael Brandwein to Commission counsel Andrew
17 Hudson, Laura Basford, and Jody Goodman dated March 21, 2018, including
18 Defendant Dee’s bank statements;
19 5. the documentation submitted via email from Settling Defendant’s
20 then-counsel Michael Brandwein on behalf of Mary Dee to Commission counsel
21 Andrew Hudson, Laura Basford, and Jody Goodman on May 8, 2018, including
22 responses to Commission counsel’s questions and documents regarding mineral
23 rights;
24 6. the documentation submitted via email from Settling Defendant’s
25 then-counsel Michael Brandwein to Commission counsel Laura Basford on May
26 16, 2018 at approximately 11:05 AM Eastern time, regarding Defendant Dee;
27 7. the documentation submitted via email from Settling Defendant’s
28 then-counsel Andrew Gordon to Commission counsel Andrew Hudson, Laura

1 Basford, and Jody Goodman on May 30, 2018 at approximately 12:39 PM Eastern
2 time, regarding Settling Defendant;

3 8. the information submitted via email from Settling Defendant's then-
4 counsel Andrew Gordon to Commission counsel Andrew Hudson, Laura Basford,
5 and Jody Goodman on May 30, 2018 at approximately 4:47 PM Eastern time,
6 regarding a vehicle;

7 9. the information and documents submitted via email from Settling
8 Defendant to Commission counsel Andrew Hudson and Jody Goodman on October
9 24, 2018 at approximately 12:43 PM Eastern time, regarding artwork;

10 10. the information and documents submitted via email from Settling
11 Defendant to Commission counsel Andrew Hudson and Jody Goodman on October
12 25, 2018 at approximately 3:58 PM Eastern time, regarding an interest in mineral
13 rights;

14 11. the information and documents submitted via email from Settling
15 Defendant to Commission counsel Andrew Hudson and Jody Goodman on October
16 25, 2018 at approximately 2:00 PM Eastern time, regarding an interest in mineral
17 rights; and

18 12. the information and documents submitted via email from Settling
19 Defendant to Commission counsel Andrew Hudson and Jody Goodman on October
20 25, 2018 at approximately 6:15 PM Eastern time, regarding an interest in mineral
21 rights.

22 L. The suspension of the judgment will be lifted if, upon motion by the
23 Commission, the Court finds that Settling Defendant failed to disclose any material
24 asset, materially misstated the value of any asset, or made any other material
25 misstatement or omission in the financial representations identified above.

26 M. If the suspension of the judgment is lifted, the judgment becomes
27 immediately due in the amount specified in Subsection A above (which the parties
28 stipulate only for purposes of this Section represents the consumer injury alleged in

1 the Complaint), less any payment previously made pursuant to this Section, and
2 any payment(s) made by or on behalf of any Non-Settling Defendant to the
3 Commission pursuant to a Final Order in this action as to such Non-Settling
4 Defendant, plus interest computed from the date of entry of this Order.

5 N. Settling Defendant relinquishes dominion and all legal and equitable
6 right, title, and interest in all assets transferred pursuant to this Order and may not
7 seek the return of any assets.

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

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

17 Q. Settling Defendant acknowledges that her Social Security Number,
18 which Settling Defendant previously submitted to the Commission, may be used
19 for collecting and reporting on any delinquent amount arising out of this Order, in
20 accordance with 31 U.S.C. §7701.

21 R. All money paid to the Commission pursuant to this Order may be
22 deposited into a fund administered by the Commission or its designee to be used
23 for equitable relief, including consumer redress and any attendant expenses for the
24 administration of any redress fund. If a representative of the Commission decides
25 that direct redress to consumers is wholly or partially impracticable or money
26 remains after redress is completed, the Commission may apply any remaining
27 money for such other equitable relief (including consumer information remedies)
28 as it determines to be reasonably related to Defendants' practices alleged in the

1 | Complaint. Any money not used for such equitable relief is to be deposited to the
2 | U.S. Treasury as disgorgement. Settling Defendant has no right to challenge any
3 | actions the Commission or its representatives may take pursuant to this Subsection.

4 | S. The asset freeze is modified to permit the transfers identified in
5 | Subections B-H of this Section. Upon completion of all such transfers, the asset
6 | freeze is dissolved as to Settling Defendant.

7 | **V. CUSTOMER INFORMATION**

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

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

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

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

28 |

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

4 **VI. COOPERATION**

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

14 **VII. ORDER ACKNOWLEDGMENTS**

15 IT IS FURTHER ORDERED that Settling Defendant obtain
16 acknowledgments of receipt of this Order:

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

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

1 personnel. For all others, delivery must occur before they assume their
2 responsibilities.

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

6 **VIII. COMPLIANCE REPORTING**

7 IT IS FURTHER ORDERED that Settling Defendant make timely
8 submissions to the Commission:

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

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

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

1 including title, role, responsibilities, participation, authority, control, and any
2 ownership.

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

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

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

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

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

27 E. Unless otherwise directed by a Commission representative in writing,
28 all submissions to the Commission pursuant to this Order must be emailed to

1 DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to:
2 Associate Director for Enforcement, Bureau of Consumer Protection, Federal
3 Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The
4 subject line must begin: FTC v. Digital Altitude, et al. (Mary Dee), No. X180021.

5 **IX. RECORDKEEPING**

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

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

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

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

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

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

22 **X. COMPLIANCE MONITORING**

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

27 A. Within 14 days of receipt of a written request from a representative of
28 the Commission, Settling Defendant must: submit additional compliance reports

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

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

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

17 D. Upon written request from a representative of the Commission, any
18 consumer reporting agency must furnish consumer reports concerning Defendant
19 Mary Dee, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C.
20 §1681b(a)(1).

21 **XI. RETENTION OF JURISDICTION**

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

24
25 **SO ORDERED this ____ day of _____, 2018.**

26
27 _____
28 JOHN A. KRONSTADT
DISTRICT COURT JUDGE

1 **SO STIPULATED AND AGREED:**

2

3 **FOR PLAINTIFF: Federal Trade Commission**

4

5

_____ *Basford*

Date: 2/28/19

6

Andrew Hudson (DC Bar No. 996294)
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7

Laura Basford (DC Bar No. 993645)
(202) 326-2343 / lbasford@ftc.gov

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600 Pennsylvania Ave., NW, CC-8528
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Local Counsel
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12

13

10990 Wilshire Boulevard, Suite 400
Los Angeles, California 90024

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15

Federal Trade Commission

16

17

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DEFENDANT: Mary Dee

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21

_____ Mary Dee

Date: _____

22

23

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28

1 **SO STIPULATED AND AGREED:**

2

3 **FOR PLAINTIFF: Federal Trade Commission**

4

5 _____ Date: _____

6 Andrew Hudson (DC Bar No. 996294)

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21 *Federal Trade Commission*

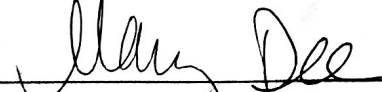
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25 **DEFENDANT: Mary Dee**

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27  _____ Date: 10.27.18

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29 Mary Dee

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