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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION**

FEDERAL TRADE COMMISSION

Plaintiff,

v.

**ERIK CHEVALIER, also d/b/a The Forking
Path, Co.,**

Defendant.

CASE NO. _____

**PROPOSED STIPULATED ORDER
FOR PERMANENT INJUNCTION
AND MONETARY JUDGMENT**

Plaintiff, the Federal Trade Commission ("FTC") filing its Complaint for a permanent injunction, and other equitable relief in this matter, pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"). Now, the FTC and Defendant, Erik Chevalier, hereby stipulate to the entry of this Stipulated Final Order for Permanent Injunction and Monetary Judgment ("Order") to resolve all matters in dispute in this action between them.

STIPULATED FINAL ORDER

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendant participated in deceptive acts or practices in violation of Section 5(a) of the FTC Act. The Complaint seeks both permanent injunctive relief and monetary relief for Defendant's alleged deceptive practices in connection with its activities relating to a fraudulent crowdfunding campaign, specifically charging consumers money for a product that was not delivered.
3. Defendant neither admits nor denies any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendant admits the facts necessary to establish jurisdiction.
4. Defendant waives any claim that he may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agrees to bear his own costs and attorney fees.
5. Defendant waives all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

For purposes of this order, the following definitions apply:

- A. **"Defendant"** means Erik Chevalier, also doing business as The Forking Path, Co., individually, and by whatever name he might be known.
- B. **"Crowdfunding campaign"** means the practice of funding or otherwise financing a project or venture by raising or soliciting money from a large number of people, typically, but not exclusively, via the Internet.

- C. “**Person**” means a natural person, organization, or other legal entity, including a corporation, partnership, proprietorship, association, cooperative, or any other group or combination acting as an entity.

ORDER

**PROHIBITED MISREPRESENTATIONS IN CONNECTION WITH
ANY CROWDFUNDING CAMPAIGN**

- I. **IT IS ORDERED** that Defendant, Defendant’s officers, agents, employees, and attorneys, and all others in active concert or participation with any of them who receive actual notice of this Order, whether acting directly or indirectly, in connection with any crowdfunding campaign, are permanently restrained and enjoined from misrepresenting or assisting others in misrepresenting, expressly or by implication:
- A. the purposes for which funds raised from consumers will be used;
 - B. that by making a contribution, consumers will receive a specific good, service, or other reward deliverable;
 - C. the performance, efficacy, nature, or central characteristics of such good, service, or other reward deliverable; or
 - D. the qualifications or expertise of any person associated with the crowdfunding campaign.

**PROHIBITED MISREPRESENTATIONS IN CONNECTION WITH
OTHER TERMS OF SALES**

- II. **IT IS ORDERED** that Defendant, Defendant’s officers, agents, employees, and attorneys, and all others in active concert or participation with any of them who receive actual notice of this Order, whether acting directly or indirectly, in connection with any

crowdfunding campaign, are permanently restrained and enjoined from failing to honor any stated refund, cancellation, exchange, or repurchase policy.

MONETARY JUDGMENT AND SUSPENSION

III. IT IS FURTHER ORDERED that:

- A. Judgment in the amount of one hundred eleven thousand seven hundred ninety-three dollars and seventy-one cents (\$111,793.71) is entered in favor of the FTC against the Defendant as equitable monetary relief.
- B. The judgment is suspended as to the Defendant, subject to the subsections below.
- C. The FTC's agreement to the suspension of the judgment is expressly premised upon the truthfulness, accuracy, and completeness of Defendant's sworn financial statement and related documents submitted to the FTC, namely:
 1. the Financial Statement of Erik Chevalier signed on February 23, 2015, including the attachments;
- D. The suspension of the judgment will be lifted as to Defendant if, upon motion by the FTC, the Court finds that Defendant failed to disclose any material asset, materially misstated the value of any asset, or made any other material misstatement or omission in the financial representations identified above.
- E. If the suspension of the judgment is lifted, the judgment becomes immediately due as to Defendant in the amount specified in Subsection A above (which the parties stipulate only for purposes of this Section represents the consumer injury alleged in the Complaint), less any payment previously made pursuant to this Section, plus interest computed from the date of entry of this Order.

- F. Defendant relinquishes dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.
- G. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the FTC, including in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.
- H. The facts alleged in the Complaint establish all elements necessary to sustain an action by the FTC pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.
- I. Defendant acknowledges that his Social Security Number, which he previously submitted to the FTC, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.
- J. All money paid to the FTC pursuant to this Order may be deposited into a fund administered by the FTC or its designee to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the FTC decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the FTC may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendant's practices alleged in the Complaint. Any money not used for such equitable relief is to be deposited to the U.S. Treasury as disgorgement.

Defendant has no right to challenge any actions the FTC or its representatives may take pursuant to this Subsection.

CUSTOMER INFORMATION

IV. **IT IS ORDERED** that Defendant, Defendant's officers, agents, employees, and attorneys, and all others in active concert or participation with any of them who receive actual notice of this Order, whether acting directly or indirectly, are permanently restrained and enjoined from:

- A. failing to provide sufficient customer information to enable the FTC to efficiently administer consumer redress. Defendant represents that he has provided this redress information to the Commission. If a representative of the FTC requests in writing any information related to redress, Defendant must provide it, in the form prescribed by the FTC, within 14 days.
- B. disclosing, using, or benefitting from customer information, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), that Defendant obtained prior to entry of this Order in connection with any crowdfunding campaign; and
- C. failing to destroy such customer information in all forms in their possession, custody, or control within 30 days after receipt of written direction to do so from a representative of the FTC.

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

ORDER ACKNOWLEDGMENTS

V. **IT IS FURTHER ORDERED** that Defendant obtains acknowledgments of receipt of this Order:

- A. Defendant, within 7 days of entry of this Order, must submit to the FTC an acknowledgment of receipt of this Order sworn under penalty of perjury.
- B. For 18 years after entry of this Order, Defendant for any business that Defendant is the majority owner or directly or indirectly controls must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within 7 days of entry of this Order for current personnel. To all others, delivery must occur before they assume their responsibilities.
- C. From each individual or entity to which Defendant delivered a copy of this Order, Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

COMPLIANCE REPORTING

VI. **IT IS FURTHER ORDERED** that Defendant make timely submissions to the FTC:

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

STIPULATED FINAL ORDER

1. Defendant must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the FTC may use to communicate with Defendant; (b) identify all of Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business; (d) describe in detail whether and how Defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the FTC.
 2. Additionally, Defendant must (a) identify all telephone numbers and all physical, postal, email and Internet addresses, including all residences; (b) identify all business activities, including any business for which Defendant performs services whether as an employee or otherwise and any entity in which Defendant has any ownership interest; and (c) describe in detail Defendant's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.
- B. For 18 years after entry of this Order, Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:
1. Defendant must report any change in: (a) any designated point of contact; or (b) the structure of any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect

compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

2. Additionally, Defendant must report any change in: (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for which Defendant performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity.
- C. Defendant must submit to the FTC notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against Defendant within 14 days of its filing.
- D. Any submission to the FTC required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____” and supplying the date, signatory’s full name, title (if applicable), and signature.
- E. Unless otherwise directed by an FTC representative in writing, all submissions to the FTC pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: FTC v. Erik Chevalier.

RECORDKEEPING

VII. **IT IS FURTHER ORDERED** that Defendant must create certain records for 18 years after entry of the Order, and retain each such record for 5 years. Specifically, Defendant, for any business for which he is the majority owner or which he directly or indirectly controls, must create and retain the following records:

- A. accounting records showing the revenues from all goods or services sold or monies received under any crowdfunding campaign;
- B. personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;
- C. records of all consumer complaints concerning the subject matter of this order and refund requests, whether received directly or indirectly, such as through a third party, and any response;
- D. all records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the FTC; and
- E. a copy of each unique advertisement or other marketing material.

COMPLIANCE MONITORING

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

- A. Within 14 days of receipt of a written request from a representative of the FTC, Defendant must: submit additional compliance reports or other requested

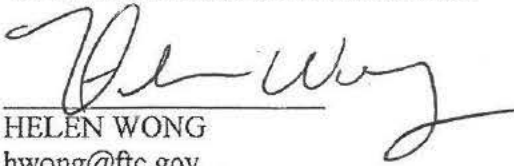
information, which must be sworn under penalty of perjury; appear for depositions; and produce documents, for inspection and copying. The FTC is also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including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

- B. For matters concerning this Order, the FTC is authorized to communicate directly with Defendant. Defendant must permit representatives of the FTC to interview any employee or other person affiliated with him who has agreed to such an interview. The person interviewed may have counsel present.
- C. The FTC may use all other lawful means, including posing, through its representatives, as consumers, suppliers, or other individuals or entities, to Defendant or any individual or entity affiliated with Defendant, without the necessity of identification or prior notice. Nothing in this Order limits the FTC's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.
- D. Upon written request from a representative of the FTC, any consumer reporting agency must furnish consumer reports concerning Defendant, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. §1681b(a)(1).

RETENTION OF JURISDICTION

- IX. **IT IS FURTHER ORDERED** that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

SO STIPULATED AND AGREED:



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FEDERAL TRADE COMMISSION



ERIK CHEVALIER, Defendant

SO ORDERED this ____ day of _____ 2015.

UNITED STATES DISTRICT JUDGE

STIPULATED FINAL ORDER