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13 Attorneys for Federal Trade Commission

14
15 **UNITED STATES BANKRUPTCY COURT FOR THE**
CENTRAL DISTRICT OF CALIFORNIA
16 **(SANTA ANA DIVISION)**

17 IN RE

18 RANJIT NARAYAN AND JOANNE
19 NARAYAN,

20 Debtors.
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Case No. SA 05-20238 ES

Chapter 7

Federal Trade Commission's Motion for
Allowance of Claim No. 9 as Timely
Filed Pursuant to 11 U.S.C.
§ 726(a)(2)(C)

Date: June 19, 2007

Time: 10:30 a.m.

Ctrm: 5-D

Ronald Reagan Federal Building
and United States Courthouse
411 West Fourth Street
Santa Ana, CA 92701

26 TO: THE HONORABLE ERITHE A. SMITH, UNITED STATES BANKRUPTCY
27 JUDGE AND ALL INTERESTED PARTIES

28 The Federal Trade Commission (the "FTC" or "Commission"), a creditor and party-in-
interest herein, by its undersigned counsel, hereby moves for entry of an order allowing the claim

1 of the Commission, Claim No. 9, as timely filed under 11 U.S.C. § 726(a)(2)(C) based upon the
2 failure of Ranjit Narayan and JoAnne Narayan (collectively, the “Debtors”) to provide the FTC
3 with timely notice of their bankruptcy case and the FTC’s lack of actual knowledge of their
4 bankruptcy case in time for the Commission to timely file a proof of claim.

5 The FTC is a judgment creditor of Debtor Ranjit Narayan in excess of \$6 million.
6 Instead of providing notice of the Debtors’ bankruptcy case to the FTC, notice was sent to an
7 address of the U.S. Department of the Treasury which had been assisting the FTC in the
8 collection of this debt. Based upon the incorrect address used by the Debtors, the FTC did not
9 learn of the Debtors’ bankruptcy case in time to timely file a proof of claim. The improper
10 address used by the Debtors does not satisfy the notice requirements to a government agency
11 under the Bankruptcy Code and Rules and the Local Bankruptcy Rules and the FTC did not
12 otherwise have actual knowledge of the Debtors’ bankruptcy case in time for the Commission to
13 timely file its proof of claim. Therefore, the FTC’s Claim No. 9 should be allowed as a timely
14 filed claim pursuant to 11 U.S.C. § 726(a)(2)(C).

15 For these reasons, and the reasons more fully set forth in the memorandum of points and
16 authorities and declarations attached hereto, the FTC respectfully requests that this Court enter an
17 order,

18 (1) granting the Federal Trade Commission’s Motion for Allowance of Claim No. 9 as
19 Timely Filed Pursuant to 11 U.S.C. § 726(a)(2)(C);

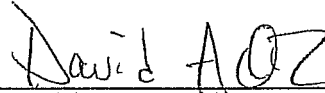
20 (2) allowing the Federal Trade Commission’s Claim No. 9, as may be amended, as timely
21 filed pursuant to 11 U.S.C. § 726(a)(2)(C); and
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1 (3) granting such other and further relief as the Court may deem just and proper.

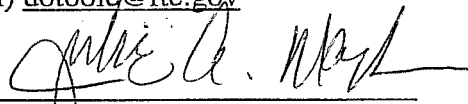
2 Respectfully submitted,

3 WILLIAM BLUMENTHAL
4 General Counsel

5 FEDERAL TRADE COMMISSION

6 

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15 **UNITED STATES BANKRUPTCY COURT FOR THE**
CENTRAL DISTRICT OF CALIFORNIA
16 **(SANTA ANA DIVISION)**

17 IN RE

18 RANJIT NARAYAN AND JOANNE
19 NARAYAN,

20 Debtors.
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Case No. SA 05-20238 ES

Chapter 7

Memorandum of Points and Authorities
and Declarations of David A. O'Toole
and Julie A. Mack in Support of Federal
Trade Commission's Motion for
Allowance of Claim No. 9 as Timely
Filed Pursuant to 11 U.S.C.
§ 726(a)(2)(C)

Date: June 19, 2007

Time: 10:30 a.m.

Ctrm: 5-D

Ronald Reagan Federal Building
and United States Courthouse
411 West Fourth Street
Santa Ana, CA 92701

28 Pursuant to 11 U.S.C. § 726 and Fed. R. Bankr. P. 2002, the Federal Trade Commission

1 (the "FTC" or "Commission")¹, a creditor and party-in-interest herein, hereby moves for entry of
2 an order allowing its claim, Claim No. 9, as a timely filed claim under 11 U.S.C. § 726(a)(2)(C)
3 based upon the failure of Ranjit Narayan and JoAnne Narayan (collectively, the "Debtors") to
4 provide the FTC with timely notice of their bankruptcy case and the FTC's lack of actual
5 knowledge of their bankruptcy case in time for the FTC to timely file a claim. A copy of the
6 Commission's claim, Claim No. 9, is attached hereto as Exhibit 1.²

7 The FTC is a judgment creditor of Debtor Ranjit Narayan in excess of \$6 million. Instead
8 of providing notice of the Debtors' bankruptcy case to the FTC, notice was sent to an address of
9 the U.S. Department of the Treasury which had been assisting the FTC in the collection of this
10 debt. Based upon the incorrect address used by the Debtors, the FTC did not learn of the
11 Debtors' bankruptcy case in time to timely file a proof of claim. The improper address used by
12 the Debtors does not satisfy the notice requirements to a government agency under the
13 Bankruptcy Code and Rules and Local Bankruptcy Rules and the FTC did not otherwise have
14 actual knowledge of the Debtors' bankruptcy case in time for the Commission to timely file its
15 proof of claim. Therefore, the FTC's Claim No. 9 should be allowed as a timely filed claim
16 pursuant to 11 U.S.C. § 726(a)(2)(C).

17 In support of its Motion for Allowance of Claim No. 9 as Timely Filed Pursuant to 11
18

19 ¹ The FTC is an independent agency of the United States Government created by
20 statute. 15 U.S.C. §§ 41 *et seq.* The Commission is charged, *inter alia*, with enforcement of
21 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or
22 practices in or affecting commerce. The Commission is authorized to initiate federal district
23 court proceedings by its own attorneys to enjoin violations of the FTC Act and to secure such
additional equitable relief as is appropriate in each case, including restitution for injured
consumers. 15 U.S.C. § 53(b).

24 ² The FTC intends that neither this motion nor any later appearance, pleading,
25 claim, or suit shall waive: (1) the FTC's right to have final orders in noncore matters entered only
26 after *de novo* review by a District Court Judge; (2) the FTC's right to have the District Court
27 withdraw the reference in any matter subject to mandatory or discretionary withdrawal; or (3) any
28 other rights, claims, actions, defenses, setoffs, recoupments, or remedies to which the FTC is or
may be entitled, in law or equity, all of which rights, claims, actions, defenses, setoffs,
recoupments and remedies the FTC expressly reserves.

1 U.S.C. § 726(a)(2)(C), the Commission states as follows:

2 **STATEMENT OF FACTS**

3 1. The FTC is an unsecured creditor with a claim against Ranjit Narayan (the
4 “Debtor” or “Narayan”) in the original principal amount of \$4,981,944.74, plus applicable
5 interest in accordance with 28 U.S.C. § 1961, pursuant to an Order for Permanent Injunction and
6 Final Judgment Against AMP Publications, Inc. and Ranjit Narayan entered on February 2, 2001,
7 by the United States District Court for the Central District of California in *Federal Trade*
8 *Commission v. AMP Publications, Inc., et al.*, Case No. SACV 00-112-AHS-ANx (C.D. Cal.)
9 (the “Enforcement Action”). The District Court subsequently entered a Corrected Order for
10 Permanent Injunction and Final Judgment Against AMP Publications, Inc. and Ranjit Narayan on
11 February 28, 2001.

12 2. The claim is the result of litigation brought by the Commission against Narayan
13 and three other defendants involving a nationwide telemarketing fraud. On February 1, 2000, the
14 FTC filed its complaint commencing the Enforcement Action, alleging that the business practices
15 of the Debtor and the other defendants violated Section 5 of the FTC Act, 15 U.S.C. § 45. The
16 Commission alleged that the Debtor and his co-defendants falsely claimed that for a fee of less
17 than \$100.00, they could provide consumers with full or part-time computer jobs working from
18 home. In fact, consumers typically received materials of little or no value, such as a computer
19 disk containing generic lists of company names that could have been culled from the Yellow
20 Pages.³ None of these materials came close to meeting the Debtor’s and his co-defendants’
21 computer job promises. The Debtor and his co-defendants also touted the work-at-home
22 program to be a “no risk” investment because consumers could easily obtain a refund. In fact,
23 however, the Debtor and his co-defendants made it extremely difficult for anyone to obtain a
24 refund.

25 3. The victims of the Debtor’s fraudulent scheme did not think that they were going
26

27 ³ Many consumers received a manual on how to start a home business, and/or a
28 manual on using the worldwide web and information about the Internet. Consumers also
received Internet browser software, which was otherwise available to the general public for free.

1 to get rich by purchasing the Debtor's products. Rather, they were willing to work hard for a
2 steady, reasonable income.

3 4. The FTC sought a permanent injunction and ancillary equitable relief against the
4 Debtor and the other defendants, including monetary relief in the form of consumer redress,
5 rescission of contracts, the refund of monies paid, and the disgorgement of ill-gotten gains
6 pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b).

7 5. Based upon the Debtor's failure to respond to the complaint and upon motion by
8 the Commission, on February 2, 2001, the District Court in the FTC's Enforcement Action
9 entered an Order for Permanent Injunction and Final Judgment Against AMP Publications, Inc.
10 and Ranjit Narayan, under which the Debtor, individually, and doing business as Nationwide
11 Publications, Inc., and co-defendant AMP Publications, Inc. were permanently banned from
12 engaging or participating in the advertising, marketing, promotion, offering for sale, or sale of
13 any Work-At-Home Opportunity, as defined in the Judgment.

14 6. In addition, the District Court entered a monetary judgment in favor of the FTC
15 and against the Debtor and AMP Publications, Inc., jointly and severally, in the amount of
16 \$4,981,944.74, plus applicable interest in accordance with 28 U.S.C. § 1961, to redress injury to
17 consumers who had been defrauded by the scheme. The amount of the judgment was based upon
18 the Debtor's and his co-defendants' ill-gotten gains through this fraudulent scheme. On February
19 28, 2001, the District Court entered a Corrected Order for Permanent Injunction and Final
20 Judgment Against AMP Publications, Inc. and Ranjit Narayan (the "Judgment") to correct an
21 inconsistency as to the monetary amount of the judgment. A true and correct copy of the
22 Judgment is included as an attachment to Exhibit 1.

23 7. The Debtor received a copy of the Judgment on March 9, 2001. A true and
24 correct copy of the Debtor's Affidavit of Receipt of Order is attached hereto as Exhibit 2. The
25 Debtor did not pay the Judgment when due and in May 2001, the FTC referred the Debtor's
26 outstanding monetary liability under the Judgment to the U.S. Department of the Treasury (the
27 "Treasury") for collection.

28 8. Significantly, Section IX.D. of the Judgment required that the Debtor,

1 unless otherwise directed by a representative of the Commission,
2 identify all written notifications to the FTC as provided in
3 reference to *FTC v. AMP Publications, Inc., et al.*, SACV-00-112-
4 AHS-ANx and mail them to:

5 Regional Director
6 Midwest Regional Office
7 Federal Trade Commission
8 55 East Monroe Street, Suite 1860
9 Chicago, IL 60603⁴

10 9. On or about October 13, 2005, the Debtors filed a voluntary petition for relief
11 under Chapter 7 of the Code, thereby commencing this bankruptcy case (the "Bankruptcy
12 Case").⁵ On October 19, 2005, the Debtors' creditors were served with a Notice of Chapter 7
13 Bankruptcy Case, Meeting of Creditors, & Deadlines. The FTC did not receive a copy of this
14 notice, although as of February 2, 2001, the FTC was a judgment creditor of the Debtor.

15 *Declaration of David A. O'Toole*, par. 8, 9.

16 10. On January 29, 2006, the Debtors' creditors were served with a Notice of Possible
17 Dividend and Order Fixing Time to File Claims in the Bankruptcy Case that set a deadline of
18 May 1, 2006, for non-government creditors to file claims. The case docket reflected a deadline
19 of July 24, 2006, for government proofs of claim. The FTC did not receive a copy of this notice.

20 *Declaration of David A. O'Toole*, par. 8, 9.

21 11. On March 23, 2007, a Treasury employee sent by facsimile to the Commission's
22 Washington, DC headquarters a copy of a Notice of Withdrawal of Debtors' Motion for Order
23 Authorizing Settlement and Compromise of Disputes Between the Chapter 7 Trustee and Debtors
24 (the "Notice of Withdrawal") that it had recently received in the Debtor's Bankruptcy Case.⁶

25 This copy was then forwarded to the undersigned on March 27, 2007. *Declaration of Julie A.*

26 ⁴ At all times material hereto, this has been the address of the Midwest Regional
27 Office. In March, 2007, the Midwest Regional Office moved to 55 West Monroe Street, Suite
28 1825, Chicago, Illinois 60603-5001.

⁵ The Debtor discloses in his amended Schedule F that this is his second chapter 7
bankruptcy case.

⁶ The facsimile was sent from the Birmingham, Alabama office of Debt
Management Services of the U.S. Department of the Treasury.

1 *Mack*, par. 3.

2 12. Receipt of this Notice of Withdrawal marked the first time the FTC had actual
3 knowledge that the Debtor and his spouse had filed the Bankruptcy Case. *Declaration of Julie A.*
4 *Mack*, par. 3, 4; *Declaration of David A. O'Toole*, par. 9.

5 13. A subsequent online docket review of the Debtor's Bankruptcy Case revealed that
6 although the Debtor listed the FTC as a creditor, he failed to use the Chicago, Illinois address
7 noted in Section IX.D. of the Judgment in scheduling the FTC in his bankruptcy documents.
8 Instead, the Debtor used the following address:

9 Federal Trade Commission
10 3700 E West Hwy Rm 600B
Hyattsville, MD 20782

11 (the "Hyattsville, Maryland Address").

12 14. The Hyattsville, Maryland Address is not an office of the FTC. Rather, it is the
13 headquarters of the Private Collection Division of Debt Management Services in the Bureau of
14 Financial Management Services of the U.S. Department of the Treasury.⁷ Thus, the first time the
15 FTC had actual knowledge of the Bankruptcy Case was on March 23, 2007, when it received a
16 copy of the Notice of Withdrawal from Treasury.

17 15. On May 2, 2007, the FTC filed its proof of claim in the Bankruptcy Case.

18 **DISCUSSION**

19 16. Distribution to creditors in a chapter 7 bankruptcy case is carried out through the
20 priority scheme set forth in the Bankruptcy Code. 11 U.S.C. § 507, 726. In light of this scheme,
21 the interests of a creditor who does not receive adequate notice of a bankruptcy case may be
22 affected through an inability to timely file a proof of claim, thereby securing his place to share
23 equally in the assets of an estate with similarly situated creditors.

24 17. To protect against such an inequity, Section 726(a)(2)(C) of the Bankruptcy Code
25 provides that a claim that is untimely filed may nevertheless receive payment pro rata with other
26 timely filed claims if the creditor holding such claim "did not have notice or actual knowledge of
27

28 ⁷ The correct address is 3700 East-West Highway, Hyattsville, Maryland 20782.

1 the case in time for timely filing of a proof of such claim under section 501(a) of this title.”
2 *Perry v. First Citizens Fed. Credit Union (In re Perry)*, 391 F.3d 282, 286 (1st Cir. 2004); *In re*
3 *Feldman*, 261 B.R. 568, 575 (Bankr. E.D.N.Y. 2001); *see Spilka v. Bosse (In re Bosse)*, 122 B.R.
4 410, 416 (Bankr. C.D. Cal. 1990); *see also* 11 U.S.C. § 502(b)(9). Here, the Debtors’ use of the
5 Hyattsville, Maryland Address was inadequate under the Bankruptcy Code and Rules to give
6 notice of the Bankruptcy Case to the Commission and the Commission had no notice of the
7 Bankruptcy Case in time to timely file a claim. Moreover, notice to Treasury cannot be imputed
8 to the FTC. Thus, the FTC had no notice or actual knowledge of the Debtors’ Bankruptcy Case.
9 Accordingly, the claim of the FTC should be allowed as a timely filed claim pursuant to 11
10 U.S.C. § 726(a)(2)(C).

11 **A. The Debtor Failed to Provide Notice of His Bankruptcy Case to the FTC**

12 18. Without appropriate notice, creditors are denied the opportunity of meaningful
13 participation in a bankruptcy case. Specifically, Section 342(a) of the Bankruptcy Code provides
14 that “[t]here shall be given such notice as is appropriate . . . of an order for relief in a case under
15 this title.” *United States v. Hairopoulos (In re Hairopoulos)*, 118 F.3d 1240, 1244 (8th Cir.
16 1997). Further, “[t]he burden of establishing that a creditor has received appropriate notice rests
17 with the debtor.” *Id.*

18 19. In addition to a bankruptcy petition, every debtor is required to file a list of
19 creditors. 11 U.S.C. §§ 301, 521(a)(1); Fed. R. Bankr. P. 1007(a). Local Bankruptcy Rule 1007-
20 2(a) requires that a debtor file a Master Mailing List of “the names, mailing addresses and zip
21 codes of all creditors listed on Schedules D, E, and F.” Accuracy of this information is of utmost
22 importance because this document is used in providing official notice of a debtor’s bankruptcy
23 case. L.B.R. 1007-2(e). This importance is further recognized in Local Bankruptcy Rule 1007-
24 2(d), which requires that the Master Mailing List “shall be accompanied by a declaration by the
25 debtor or debtor’s counsel attesting to the completeness and correctness of the list.”

26 20. Further, debtors are required to adhere to the special notice requirements when
27 serving government agencies. *United States v. Bridges*, 894 F.2d 108, 111 (5th Cir. 1990). As
28 the Court noted in *Bridges*,

1 The treatment generally of government agencies, including adequate notice to
2 such agencies, is often subject to special statutory provisions and procedures.
3 *See, e.g.*, Bankr. Rules 2002(j), 7004(b), 7012(a); Fed. R. Civ. P. 4(d)(4), 4(d)(5),
4 12(a). Recognizing the potential problems when an extensive, bureaucratic
5 agency is involved as a creditor in a bankruptcy proceeding, a debtor should give
6 special attention to insure timely and meaningful notice to the correct agency.

7 In this regard, in the Central District of California, notice to the United States for debts other than
8 for taxes is required to be sent to the department, agency, or instrumentality of the United States
9 through which the debtor became indebted. Fed. R. Bankr. P. 2002(j)(4); L.B.R. 2002-2(b).

10 21. Even though the Debtors' Schedules show that the FTC is by far their largest
11 creditor and the Judgment specifically orders where notice to the FTC must be sent, the Debtors
12 did not give special attention to insure that the FTC would receive notice of their Bankruptcy
13 Case. Rather, instead of providing notice to the FTC, the "agency . . . of the United States
14 through which [he] became indebted," at the address set forth in the Judgment, notice of their
15 Bankruptcy Case was directed to a non-FTC address. Fed. R. Bankr. P. 2002(j)(4). This notice
16 is plainly inadequate under the Bankruptcy Code and Rules.

17 **B. Giving Notice of the Bankruptcy Case to Treasury Cannot be Imputed**
18 **to the FTC**

19 22. Moreover, the Debtors' notice to Treasury cannot be imputed to the FTC. Notice
20 to Treasury is not notice to the Federal Trade Commission.⁸ As the Fifth Circuit has held,

21 . . . notice or actual knowledge of one United States government agency will not
22 be imputed to another agency. *See In re H. & C. Table Co.*, 457 F. Supp. 858, 860
23 (W.D. Tenn. 1978) (The United States is a "monstrous government" and one
24 agency will not always know what another agency is doing; when the appropriate
25 representative of the government is not notified, the rights of the United States
26 may be jeopardized.); *United States v. Yale Transport Corp.*, 184 F.Supp. 42, 47
27 (S.D.N.Y. 1960) ("[N]otice of bankruptcy proceedings should be reasonably
28 calculated to come to the attention of that branch of the Government familiar with

29 ⁸ A general rule under agency law is that notice to or knowledge of an agent can be
30 imputed to a creditor if the "agent was employed to collect the debt or was in charge of its
31 collection." *In re Linzer*, 264 B.R. 243, 248 (Bankr. E.D.N.Y. 2001). Such a rule does not
32 apply, however, when a government agency is involved. *In re Venson*, 234 F. Supp. 271, 273
33 (N.D. Ga. 1964) *aff'd*, 337 F.2d 616 (5th Cir. 1964) (in a Bankruptcy Act case involving the
34 predecessor to Section 523(a)(3), the court found that "[s]uch knowledge must be actually
35 existent and not mere constructive notice or imputed knowledge"); *United States v. Bridges*, 894
36 F.2d at 112.

1 the claims involved and which exercises functions with respect thereto.”); *United*
2 *States v. Golenburg*, 175 F. Supp. 415, 418 (N.D. Ohio 1959) (Imputing notice or
knowledge from one government agency to another is obviously unreasonable.).

3 *United States v. Bridges*, 894 F.2d at 112.

4 23. Indeed, “[t]he only proper way in which notice of bankruptcy may be given to the
5 United States is by notice to the particular agency to which the debt is owing.” *U.S. Metal*
6 *Products Co. v. United States*, 302 F. Supp. 1263, 1270 (E.D.N.Y. 1969) (Debtor was requested
7 to direct correspondence concerning its contract to a particular agency. Notice of the bankruptcy
8 that was provided to the Defense Electronics Supply Center would not be imputed to the Defense
9 Contract Administration Service Region, New York, which took over administration of the
10 contract.); *see also In re Interstate Cigar Company*, 150 B.R. 305, 309 (Bankr. E.D.N.Y. 1993).
11 The Debtor had the appropriate address when he was served with a copy of the Judgment. That
12 is the address to which notice should have been sent.

13 24. Even notice to another FTC address likely would have resulted in the FTC
14 receiving notice and actual knowledge of the Bankruptcy Case. *Declaration of Julie A. Mack*,
15 par. 2. However, Treasury was not the agency to whom the Debtor was indebted. Nor did
16 Treasury have the authority to file pleadings or appear in this Court or file a proof of claim on
17 behalf of the FTC.⁹

18 CONCLUSION

19 25. The improper and incorrect scheduling of the FTC’s address deprived the FTC of
20 its ability to file a timely proof of claim and share in any distribution in this case for the benefit
21 of consumers who were harmed by the Debtor’s fraudulent scheme. The victims of the Debtor’s
22 work-at-home scheme should not be made to pay for the Debtor’s failure to follow the well-
23 prescribed requirement of the Bankruptcy Code and Rules and the explicit instruction in the
24 District Court Judgment as to where notice should have been sent. Given that this error was the
25 Debtors’, and that the Commission did not have timely notice or actual knowledge of the

26
27 ⁹ In fact, it is the FTC who will alert Treasury upon receiving notice of a
28 bankruptcy case in order to stop all collection activity in light of the automatic stay under 11
U.S.C. § 362.

1 Bankruptcy Case, the claim of the Commission should be allowed as timely filed under 11
2 U.S.C. § 726(a)(2)(C).

3 WHEREFORE, in consideration of the foregoing, the Federal Trade Commission
4 respectfully requests that the Court enter an order,

5 (1) granting the Federal Trade Commission's Motion for Allowance of Claim No. 9 as
6 Timely Filed Pursuant to 11 U.S.C. § 726(a)(2)(C);

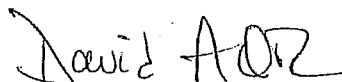
7 (2) allowing the Federal Trade Commission's Claim No. 9, as may be amended, as timely
8 filed pursuant to 11 U.S.C. § 726(a)(2)(C); and

9 (3) granting such other and further relief as the Court may deem just and proper.

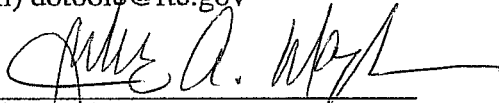
10 Respectfully submitted,

11 WILLIAM BLUMENTHAL
12 General Counsel

13 FEDERAL TRADE COMMISSION

14 

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I, David A. O'Toole, declare as follows:

1. I am a staff attorney in the Midwest Regional Office of the Federal Trade

2. I was the lead staff attorney on behalf of the Federal Trade Commission (the

3. Under the procedures in place at the FTC Midwest Regional Office, all documents

4. On February 1, 2000, the FTC filed its complaint commencing the Enforcement

5. Based upon the Debtor's failure to respond to the complaint and upon motion by

1 any Work-At-Home Opportunity, as defined in the Judgment. In addition, the District Court
2 entered a monetary judgment in favor of the FTC and against the Debtor and AMP Publications,
3 Inc., jointly and severally, in the amount of \$4,981,944.74, plus applicable interest in accordance
4 with 28 U.S.C. § 1961, to redress injury to consumers who had been defrauded by the scheme.
5 On February 28, 2001, the District Court entered a Corrected Order for Permanent Injunction and
6 Final Judgment Against AMP Publications, Inc. and Ranjit Narayan (the "Judgment") to correct
7 an inconsistency as to the monetary amount of the judgment.

8 6. For the purposes of the Judgment, Section IX.D. of the Judgment required that the
9 Debtor,

10 unless otherwise directed by a representative of the Commission,
11 identify all written notifications to the FTC as provided in
12 reference to *FTC v. AMP Publications, Inc., et al.*, SACV-00-112-
13 AHS-ANx and mail them to:

14 Regional Director
15 Midwest Regional Office
16 Federal Trade Commission
17 55 East Monroe Street, Suite 1860
18 Chicago, IL 60603¹⁰

19 7. According to the Debtor's Affidavit of Receipt of Order, the Debtor received a
20 copy of the Judgment on March 9, 2001. The Debtor did not pay the Judgment when due and in
21 May, 2001, the FTC referred the Debtor's outstanding monetary liability under the Judgment to
22 U.S. Department of the Treasury for collection (the "Treasury").

23 8. On or about October 13, 2005, the Debtors filed a voluntary petition for relief
24 under Chapter 7 of the Code, thereby commencing this bankruptcy case (the "Bankruptcy Case").
25 On October 19, 2005, the Debtors' creditors were served with a Notice of Chapter 7 Bankruptcy
26 Case, Meeting of Creditors, & Deadlines. On January 29, 2006, the Debtors' creditors were
27 served with a Notice of Possible Dividend and Order Fixing Time to File Claims in the
28 Bankruptcy Case that set a deadline of May 1, 2006, for non-government creditors to file claims.

27 ¹⁰ At all times material hereto, this has been the address of the Midwest Regional
28 Office. In March, 2007, the Midwest Regional Office moved to 55 West Monroe Street, Suite
1825, Chicago, Illinois 60603-5001.

9. The FTC did not receive notice of the Bankruptcy Case nor did it have actual knowledge of the Bankruptcy Case until March 23, 2007 when Treasury sent to the Commission's Washington, D.C. headquarters a facsimile of a pleading it had recently received in the Bankruptcy Case.

10. Upon learning of the Bankruptcy Case from Julie A. Mack, an attorney at the Commission's Washington, D.C. headquarters, I confirmed with members of the FTC's Midwest Regional Office that we had not received any notice of the Debtors' Bankruptcy Case.

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

Executed at Chicago, Illinois on May 23, 2007.

David A. O'Toole

1 DECLARATION OF JULIE A. MACK

2 I, Julie A. Mack, declare as follows:

3 1. I am a staff attorney with the Federal Trade Commission (the "FTC" or
4 "Commission"), an unsecured creditor and party-in-interest in this bankruptcy case. I make this
5 declaration in support of the Federal Trade Commission's Motion for Allowance of Claim No. 9
6 as Timely Filed Pursuant to 11 U.S.C. § 726(a)(2)(C). I am competent to make this declaration
7 based on my own knowledge, information and belief.

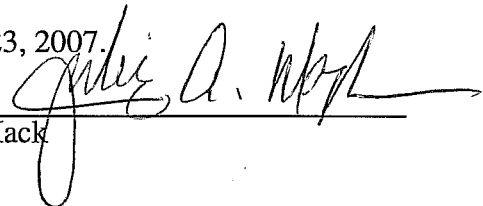
8 2. Under procedures in place at all material times at the Washington, D.C.
9 headquarters of the FTC, all bankruptcy notices, pleadings, documents and other papers would be
10 forwarded to me or three other bankruptcy attorneys within the Division of Planning and
11 Information of the FTC. In November 2006, the four bankruptcy attorneys were transferred from
12 the Division of Planning and Information to the Division of Enforcement; however, the policy of
13 forwarding of all bankruptcy-related documents to the bankruptcy attorneys has not changed.

14 3. On March 23, 2007, an employee with the U.S. Department of the Treasury sent
15 by facsimile to an employee of the FTC's Division of Planning and Information a copy of a
16 Notice of Withdrawal of Debtors' Motion for Order Authorizing Settlement and Compromise of
17 Disputes Between the Chapter 7 Trustee and Debtors that it had recently received in Ranjit
18 Narayan's and JoAnne Narayan's bankruptcy case (the "Debtors' Bankruptcy Case").¹¹ This
19 facsimile was then forwarded to me on March 27, 2007.

20 4. Upon learning of the Bankruptcy Case, I confirmed with the three other
21 bankruptcy attorneys that none had received any notice of the Debtors' Bankruptcy Case.

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

24 Executed at Washington, D.C. on May 23, 2007.

25 
26 Julie A. Mack
27

28 ¹¹ The facsimile was sent from the Birmingham, Alabama office of Debt Management Services of the U.S. Department of the Treasury.