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

IN RE RANJIT NARAYAN AND JOANNE NARAYAN, Debtors.	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

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

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

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

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

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

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

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

Respectfully submitted,

WILLIAM BLUMENTHAL
General Counsel

FEDERAL TRADE COMMISSION

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Attorneys for Federal Trade Commission

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

IN RE RANJIT NARAYAN AND JOANNE NARAYAN, Debtors.	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

Pursuant to 11 U.S.C. § 726 and Fed. R. Bankr. P. 2002, the Federal Trade Commission (the "FTC" or "Commission")[1], a creditor and party-in-interest herein, hereby moves for entry of an order allowing its claim, Claim No. 9, as a timely filed claim under 11 U.S.C. § 726(a)(2)(C) based upon the failure of Ranjit Narayan and JoAnne Narayan (collectively, the "Debtors") to provide the FTC with timely notice of their bankruptcy case and the FTC's lack of actual knowledge of their bankruptcy case in time for the FTC to timely file a claim. A copy of the Commission's claim, Claim No. 9, is attached hereto as Exhibit 1.[2]

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

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

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[1] The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41 *et seq*. The Commission is charged, *inter alia,* with enforcement of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The Commission is authorized to initiate federal district 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).

[2] The FTC intends that neither this motion nor any later appearance, pleading, claim, or suit shall waive: (1) the FTC's right to have final orders in noncore matters entered only after *de novo* review by a District Court Judge; (2) the FTC's right to have the District Court withdraw the reference in any matter subject to mandatory or discretionary withdrawal; or (3) any 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.

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

STATEMENT OF FACTS

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

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

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

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[3] Many consumers received a manual on how to start a home business, and/or a 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.

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

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

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

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

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

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

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

Regional Director
Midwest Regional Office
Federal Trade Commission
55 East Monroe Street, Suite 1860
Chicago, IL 60603[4]

9. On or about October 13, 2005, the Debtors filed a voluntary petition for relief under Chapter 7 of the Code, thereby commencing this bankruptcy case (the "Bankruptcy Case").[5] On October 19, 2005, the Debtors' creditors were served with a Notice of Chapter 7 Bankruptcy Case, Meeting of Creditors, & Deadlines. The FTC did not receive a copy of this notice, although as of February 2, 2001, the FTC was a judgment creditor of the Debtor. *Declaration of David A. O'Toole*, par. 8, 9.

10. On January 29, 2006, the Debtors' creditors were served with a Notice of Possible Dividend and Order Fixing Time to File Claims in the Bankruptcy Case that set a deadline of May 1, 2006, for non-government creditors to file claims. The case docket reflected a deadline of July 24, 2006, for government proofs of claim. The FTC did not receive a copy of this notice. *Declaration of David A. O'Toole*, par. 8, 9.

11. On March 23, 2007, a Treasury employee sent by facsimile to the Commission's Washington, DC headquarters a copy of a Notice of Withdrawal of Debtors' Motion for Order Authorizing Settlement and Compromise of Disputes Between the Chapter 7 Trustee and Debtors (the "Notice of Withdrawal") that it had recently received in the Debtor's Bankruptcy Case.[6] This copy was then forwarded to the undersigned on March 27, 2007. *Declaration of Julie A.*

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4 At all times material hereto, this has been the address of the Midwest Regional Office. In March, 2007, the Midwest Regional Office moved to 55 West Monroe Street, Suite 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.

Mack, par. 3.

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

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

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

(the "Hyattsville, Maryland Address").

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

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

DISCUSSION

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

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

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[7] The correct address is 3700 *East*-West Highway, Hyattsville, Maryland 20782.

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

A. <u>The Debtor Failed to Provide Notice of His Bankruptcy Case to the FTC</u>

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

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

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

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

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

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

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

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

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

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

> the claims involved and which exercises functions with respect thereto."); *United 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.).

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

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

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

CONCLUSION

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

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

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

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

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

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

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

Respectfully submitted,

WILLIAM BLUMENTHAL
General Counsel

FEDERAL TRADE COMMISSION

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Julie A. Mack

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(Email) kabbe@ftc.gov

DECLARATION OF DAVID A. O'TOOLE

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

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

2. I was the lead staff attorney on behalf of the Federal Trade Commission (the "FTC" or "Commission") in litigation against Ranjit Narayan (the "Debtor") and others in the United States District Court for the Central District of California in *Federal Trade Commission v. AMP Publications, Inc., et al.,* Case No. SACV 00-112-AHS-ANx (C.D. Cal.) (the "Enforcement Action").

3. Under the procedures in place at the FTC Midwest Regional Office, all documents concerning any defendant in the Enforcement Action, including any materials related to a bankruptcy filing, would be sent to me. At no time did I receive any notice of the filing of Ranjit Narayan's and JoAnne Narayan's (collectively, the "Debtors") bankruptcy case.

4. On February 1, 2000, the FTC filed its complaint commencing the Enforcement Action, alleging that the business practices of the Debtor and the other defendants violated Section 5 of the FTC Act, 15 U.S.C. § 45. The FTC sought a permanent injunction and ancillary equitable relief against the Debtor and the other defendants, including monetary relief in the form of consumer redress, rescission of contracts, the refund of monies paid, and the disgorgement of ill-gotten gains pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b).

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

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

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

> unless otherwise directed by a representative of the Commission, identify all written notifications to the FTC as provided in reference to *FTC v. AMP Publications, Inc., et al.*, SACV-00-112-AHS-ANx and mail them to:
>
> Regional Director
> Midwest Regional Office
> Federal Trade Commission
> 55 East Monroe Street, Suite 1860
> Chicago, IL 60603[10]

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

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

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[10] At all times material hereto, this has been the address of the Midwest Regional 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'T

David A. O'Toole

DECLARATION OF JULIE A. MACK

I, Julie A. Mack, declare as follows:

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

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

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

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

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

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

Julie A. Mack

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