

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	Case No. 03-C-3904
)	
v.)	Hon. Robert W. Gettleman
)	
KEVIN TRUDEAU,)	
)	
Defendant.)	
)	
)	

**PLAINTIFF'S PROPOSED FINDINGS OF FACT AND
CONCLUSIONS OF LAW**

PROPOSED FINDINGS OF FACT

I. PRIOR PROCEEDINGS

- A. In September 2007, the FTC filed a motion to hold Trudeau in contempt for violating the Stipulated Final Order in the underlying action by airing blatantly deceptive infomercials for his diet book, *Weight Loss Cure*. DE62. In November 2007, the Court held Trudeau in contempt. DE93.
- B. The Court imposed a \$37.6 million compensatory contempt sanction against Trudeau, based on the total amount of consumer loss he caused. Specifically, the Court stated: “*Trudeau is ordered to pay forthwith to plaintiff the sum of \$37,616,161.*” Corrected Supplemental Order at 13-14, DE372 (emphasis added). The Seventh Circuit affirmed the Supplemental Order in November 2011. *FTC v. Trudeau*, 662 F.3d 947 (7th Cir. 2011).
- C. On June 2, 2010, following an appeal and additional proceedings on remand, the Court ordered Trudeau to compensate the victims of his second contempt in this matter. Specifically, the Court wrote: “Trudeau is ordered to pay forthwith the sum of \$37,616,161, representing the consumer loss resulting from Trudeau’s contumacious and deceptive infomercial marketing of the Weight Loss Cures book.” Order (June 2, 2010) (DE372) (the “Order To Pay”).
- D. On July 13, 2012, the FTC moved to hold Trudeau in contempt for a third time. DE481.
- E. On August 17, 2012, the Court denied Trudeau’s Motion for Modification of Order and Approval of Consumer Remediation Plan, in which Trudeau sought to institute a court-approved “consumer remediation plan” to pay the \$37.6 million he owes as a remedial sanction for his willful contempt of this Court’s orders. Specifically, the Court stated that “[t]he notion that this court would allow, not to mention trust, Trudeau to participate in any fashion in the administration of the court’s remedial sanction by ‘re-enter[ing] the infomercial business’ is preposterous in light of Trudeau’s duplicitous and contumacious history with this court and the thousands of consumers he has deceived. Trudeau has little to no credibility with the court, and his criticism of the FTC’s collection efforts for the benefit of the consumers on whose behalf the FTC has successfully prosecuted this action is totally misplaced.” Order (August 17, 2012) (DE494).
- F. On December 6, 2012, the Court held that “there is no question that the FTC has met its initial burden, establishing a prima facie showing of contempt.” The Court wrote:

In the instant case, the court ordered Trudeau “to pay forthwith to plaintiff the sum of \$37,616,161” Forthwith has come and gone without any significant payment by Trudeau. Thus, there is no question that the FTC has met its initial burden, establishing a prima facie showing of contempt. Trudeau maintains that he does not have the financial ability to pay this rather substantial sanction, but the evidence he has submitted to date falls woefully short of demonstrating that, or that he has made all reasonable efforts to comply. His failure to make any payments prior to the filing of the instant motion by the FTC demonstrates a lack of good faith.

Court's Dec. 6, 2012 Order (DE535). Specifically, the Court held that the Order To Pay set forth an unambiguous command, that Trudeau violated that command, that Trudeau's violation was significant, *i.e.*, he did not substantially comply with the order. The Court further rejected Trudeau's position that he had taken "reasonable and diligent" steps to comply with the Order To Pay. The Court found that neither Trudeau's eleventh-hour, token payment of \$54,000, nor his proposal to design his own "consumer remediation plan" qualified as "reasonable and diligent" efforts to comply.

- G. Trudeau, his companies, his employees, and his attorneys all resisted the FTC's discovery efforts. The FTC filed various motions to compel discovery. *See, e.g.*, Motion to Compel Winston & Strawn, the Law Offices Of Marc Lane, and Website Solutions USA to Comply With Subpoenas (Jan. 18, 2013) (DE538); Motion to Compel GIN USA And KT Radio Network to Comply With Subpoenas (Feb. 13, 2013) (DE557); Cross-Motion to Compel Suneil Sant to Comply With A Subpoena (Mar. 28, 2013) (DE593); Motion to Hold the Law Offices Of Marc Lane, GIN USA, Website Solutions USA, and KT Radio Network In Contempt, (Apr. 1, 2013) (DE597); Motion to Compel the Law Offices Of Marc Lane to Disclose Information Regarding Trudeau's Asset Protection Plan (Apr. 15, 2013) (DE626).
- H. On May 2, 2013, the Court ordered the Law Offices of Marc J. Lane to produce documents concerning Trudeau's "asset protection" efforts. Order (DE661). Specifically, the Court found "that plaintiff FTC has established prima facie evidence sustaining the crime/fraud exception to the attorney/client and work product privilege."

II. TRUDEAU'S COMPANIES

A. Companies' Creation and Organizational Structure

- 1. Trudeau married Babenko on June 26, 2008 (FTCX 1C), shortly before the Court first ordered Trudeau to compensate his victims. (Opinion & Order (Aug. 7, 2008) (DE147).) Babenko "took the Fifth" when asked about how she met Trudeau. (FTCX 14, Babenko Dep. 96:16-97:3, 100:3-24.)
- 2. Following the Court's original 2008 order to pay, Trudeau, with the help of Lane (FTCX 12I; Evid. Hr'g Tr. 50:14-53:16, June 26, 2013), created seven domestic and offshore entities that Trudeau uses to operate the Global Information Network (the "**GIN-Related Entities**"): GIN USA, Inc.; GIN FDN; KTRN; APC Trading; WSU; WSS; and NBT Trading Limited. Each entity is described in turn:
 - a. Trudeau created **GIN USA Inc.** ("GIN USA"). (Evid. Hr'g Tr. 35:24-37:1, 38:6-12, 39:13-40:12, 45:25-46:12, May 21, 2013; FTXC 12D; FTXC 12L; FTXC 20P; FTXC 23; FTXC 31.) Lane incorporated GIN USA in June 2011 in South Dakota. (FTCX 2A; FTXC 49.)

- b. Trudeau created **Global Information Network FDN** (“GIN FDN”). (Evid. Hr’g Tr. 40:13-18, 49:19-50:9, May 21, 2013; FTCX 12I; FTCX 23.) GIN FDN owns GIN USA. (FTCX 13J; FTCX 13K; FTCX 13L; FTCX 41.) GIN FDN is a Nevis multiform foundation. (FTCX 2A; FTCX 13K; FTCX 13L.) Lane “intentionally recommended this structure for protection of the organization’s assets.” (FTCX 20M.) Marc Lane is GIN FDN’s incorporator. (FTCX 2A.)
 - c. Trudeau created **KT Radio Network Inc.** (“KTRN”). (Evid. Hr’g Tr. 36:14-16, May 21, 2013; FTXC 12D; FTXC 12L). Lane incorporated KTRN in 2009 in Delaware. (FTCX 2A; FTCX 50.) KTRN is owned by APC Trading Limited. (FTCX 13J; FTCX 13K; FTCX 13L.)
 - d. Trudeau created **APC Trading** (“APC”), a Belize corporation, no later than July 2010. (FTCX 7C.) Babenko is the sole owner and director of APC. (FTCX 13J; FTCX 13K; FTCX 13L.) APC owns KTRN, NBT Trading Limited, and WSS. (FTCX 13J; FTCX 13K; FTCX 13L; FTCX 41.) APC serves as the “management board” for GIN FDN. (FTCX 13J; FTCX 13K; FTCX 13L.)
 - e. Trudeau created **Website Solutions USA** (“WSU”). (Evid. Hr’g Tr. 40:19-41:20, May 21, 2013). Lane incorporated WSU in 2010 in Illinois. (FTCX 2A; FTCX 48.) WSU is owned by NBT Trading Limited. (FTCX 13J; FTCX 13K; FTCX 13L; FTCX 41.)
 - f. Trudeau created **Website Solutions Switzerland GmbH** (“WSS”) with Lane’s assistance (FTCX 12I; FTCX 13L; FTCX 13K) in September 2010 (Evid. Hr’g Tr. 40:19-41:20, May 21, 2013; FTCX 7B, FTCX 13J). WSS currently “employs” Trudeau (Evid. Hr’g Tr. 41:4-5, May 21, 2013; FTCX 7A; DX 25 at 12). WSS may have changed its name and form to Sales Solutions International. (DX 26)
 - g. Trudeau created **NBT Trading Limited**, a Hong Kong corporation, which owns WSU. (FTCX 13J; FTCX 13K; FTCX 13L; FTCX 41.) NBT Trading Limited is owned by APC (which, in turn, is wholly owned by Babenko). (FTCX 13J; FTCX 13K; FTCX 13L.)
3. GIN USA, KTRN, and WSU share an office address (130 Quail Ridge Drive, Westmont, Illinois) and phone number with companies Trudeau admits to owning. GIN USA, KTRN, and WSU also share nominee officers and bank signatories (Babenko and Sant); and incorporator and corporate counsel (Marc Lane). (FTCX 2A; FTCX 48-50; Evid. Hr’g Tr. 47:3-8, May 21, 2013.)

4. In addition to the GIN-Related Entities described above, Trudeau controls various other companies which can be organized into three categories: the “KMT Fiduciary Trust Entities”; the “Trudeau-Owned Entities”; and “Other Entities.”
 - a. Trudeau controls the “**KMT Fiduciary Trust Entities**” which includes 14 entities: Alliance Publishing Group, Inc.; Direct Response Associates LLC; KMT Fiduciary Trust; KT Capital Corporation; K.T. Corporation Limited; Natural Cures Holdings Inc.; Natural Cures, Inc.; TRUCOM, L.L.C.; Trudeau Approved Products Inc.; TruStar Marketing Corporation; TruStar Productions, Incorporated; The Whistle Blower, Inc.; 0913372 B.C. Ltd.; and 0913376 B.C. Ltd. (FTCX 4G; FTCX 4I; FTCX 13L.)
 - i. **Alliance Publishing Group, Inc.** (“Alliance”) is wholly owned by TRUCOM, L.L.C. and Lane is its Illinois registered agent. (FTCX 13L.)
 - ii. Trudeau is the manager of **Direct Response Associates LLC**; Lane is the Illinois registered agent; and K.T. Corporation Limited is its sole member. (FTCX 13L.)
 - iii. Trudeau created **KMT Fiduciary Trust** in 1994. (FTCX 4G at 47-48.) KMT Fiduciary Trust is registered in Mauritius. (FTCX 4G at 47-55; FTCX 4I; FTCX 12E.)
 1. Lane admitted that Trudeau controls KMT Fiduciary Trust (Evid. Hr’g Tr. 173:6-10, June 27, 2013), although Trudeau’s parents and brother are its nominal beneficiaries.
 2. Lane stated that KMT Fiduciary Trust was “an indispensable component of Kevin’s current asset protection plan,” (FTCX 12E; Evid. Hr’g Tr. 49:1-3, June 26, 2013), and Lane’s asset protection related emails refer to Trudeau as having “ultimate beneficial ownership” of KMT Fiduciary Trust. (FTCX 12E.) Lane advised Sant that “the very existence” of KMT Fiduciary Trust “should continue to deter the FTC from aggressive collection action.” (FTCX 20Y.)
 3. Because Trudeau controls KMT, he also controls the numerous companies it owns directly or indirectly (Alliance, Direct Response Associates LLC, K.T. Corporation Limited, Natural Cures, Inc., Natural Cures Holdings Inc., TRUCOM, L.L.C., Trudeau-Approved Products Inc., TruStar Marketing Corporation, TruStar Productions, Incorporated, and several others). (FTCX 13L.)

- iv. **KT Capital Corporation** is wholly owned by K.T. Corporation Limited. (FTCX 13L.) Trudeau is the director, president, and treasurer of KT Capital Corporation.
- v. **K.T. Corporation Limited** is an Isle of Man corporation and is wholly owned by KMT Fiduciary Trust. (FTCX 4I; FTCX 13L.) K.T. Corporation Limited wholly owns TRUCOM, LLC., which in turn wholly owns Alliance. (FTCX 4I; FTCX 13L.)
- vi. **Natural Cures Holdings Inc.** is owned by TRUCOM, LLC (97.7% ownership share) and ITV Global, Inc. (2.3%). (FTCX 13L.) Lane is its Illinois registered. (FTCX 13L.) Natural Cures Holdings Inc. is the sole owner of Natural Cures, Inc. (FTCX 13L.)
- vii. **Natural Cures, Inc.** is wholly owned by Natural Cures Holdings Inc. (FTCX 13L.) Lane is its Illinois registered agent. (FTCX 4I; FTCX 13L.)
- viii. **TRUCOM, L.L.C.** is registered in Nevada and is wholly owned by K.T. Corporation Limited. (FTCX 4I; FTCX 13L.) Trudeau is TRUCOM, L.L.C.'s manager. (FTCX 13L.)
- ix. **Trudeau Approved Products Inc.** is wholly owned by TRUCOM, L.L.C. (FTCX 13L.) Trudeau is its director and chairman; Lane is its Illinois registered agent. (FTCX 13L.)
- x. **TruStar Marketing Corporation** is owned by TRUCOM, LLC (97.7% ownership share) and ITV Global, Inc. (2.3%). (FTCX 13L.) Trudeau is its director, president, secretary, and treasurer; Lane is its Illinois registered agent. (FTCX 13L.)
- xi. **TruStar Productions, Incorporated** is registered in Delaware (FTCX 4I) and is wholly owned by TRUCOM, L.L.C. (FTCX 13L.) Trudeau is its director, president, and treasurer; Lane is its Illinois registered agent. (FTCX 13L.)
- xii. **The Whistle Blower, Inc.** is owned by TRUCOM, LLC (97.7% ownership share) and ITV Global, Inc. (2.3%). (FTCX 13L.) Trudeau is its director, president, and treasurer; Lane is its Illinois registered agent. (FTCX 13L.)
- xiii. **0913372 B.C. Ltd.** is wholly owned by Natural Cures, Inc. (FTCX 13L.) Its registered office is in British Columbia, Canada. (FTCX 13L.)

- xiv. **0913376 B.C. Ltd.** is wholly owned by Trudeau Approved Products, Inc. Trudeau is its director and its registered office is in British Columbia, Canada. (FTCX 13L.)

- b. Trudeau controls the “**Trudeau-Owned Entities**” which includes four business entities: International Pool Tour Inc.; Pool Licensing LLC; Trudeau Management Inc.; and Natural Cures Health Institute. (FTCX 4I; FTCX 13L.)
 - i. Trudeau owns **International Pool Tour Inc.**, and is also its director, president, and treasurer. (FTCX 4I; FTCX 13L.)
 - ii. Trudeau owns and manages **Pool Licensing LLC**, a Nevada company. (FTCX 4I; FTCX 13L.)
 - iii. Trudeau owns **Trudeau Management Inc.**, an Illinois corporation. (FTCX 4I; FTCX 13L.) Trudeau is also its director, president, and treasurer; Lane is its registered agent. (FTCX 13L.)
 - iv. **Natural Cures Health Institute** is an Illinois not for profit corporation. (FTCX 4I; FTCX 13L.) Lane is its registered agent and Trudeau is one of its directors. (FTCX 4I; FTCX 13L.) NCHI serves as Trudeau’s legal defense fund. (FTCX 12M; FTCX 20V).

- c. Trudeau controls the “**Other Entities**” which includes three companies: Sovereign Trust; NT Trading S.A.; and Advantage Solutions Ltd. (FTCX 13J; FTCX 13K; FTCX 13L.) Each of the Other Entities is described below:
 - i. **Sovereign Trust** is a Cook Islands trust (FTCX 13K). Babenko is the trust’s grantor and APC is the sole beneficiary. (FTCX 13K). Trudeau and Lane helped create Sovereign Trust. (FTCX 12H at 1-2.)
 - ii. **NT Trading S.A.** is a Panama Corporation and is wholly owned by Sovereign Trust. (FTCX 13K; FTCX 14X.) Although Lane produced an organizational chart indicating that NT Trading S.A. is “abandoned/ not active,” (FTCX 13K), in July 2008, NT Trading S.A. executed a power of attorney appointing Trudeau as its true and lawful Attorney-in-fact (FTCX 14X; FTCX 47). In 2009, Lane warned Trudeau that this “would defeat the asset protection strategy,” and suggested that he (Lane) should have the power revoked. (FTCX 20Q.) Trudeau instructed Lane not to have the power revoked “yet.” (FTCX 20Q.)
 - iii. **Advantage Solutions Ltd** is a Seychelles corporation wholly owned by Babenko. (FTCX 13J; FTCX 13K; FTCX 13L.)

5. Trudeau Uses Figureheads as the Officers, Directors, and Managers of his Companies
 - a. Babenko
 - i. Babenko is the nominee officer and director of KTRN and GIN USA (Evid. Hr'g Tr. 46:6-8, May 21, 2013; FTCX 2A; FTCX 2B; FTCX 14AA; FTCX 18A; FTCX 13J.)
 - ii. Babenko owns Advantage Solutions Ltd.; APC Trading Limited; NBT Trading Limited (via her ownership of APC Trading Limited); WSS (via her ownership of APC Trading Limited); and WSU (via her ownership of NBT Trading Limited). (FTCX 13J; FTCX 13K.) GIN FDN is a Nevis "Multiform Foundation" with no formal owner, but APC serves as the sole member of its "management board." Lane "intentionally recommended this structure for protection of the organization's assets." (FTCX 20M) Babenko receives a generous salary from the GIN-Related Entities. (FTCX 12Y-2; FTCX 87; FTCX 11Z.)
 - iii. Babenko also is the bank signatory for KTRN, GIN USA, and GIN FDN. (FTCX 2B; FTCX 14AA; FTCX 18A.)
 - iv. There is no evidence to support Trudeau's assertions that Babenko was a "successful businesswoman in her own right." (Contempt Opp. (DE508) (Sept. 25, 2012) at 5.) Babenko asserted her Fifth Amendment right rather than testify regarding her education and business experience. (FTCX 14, Babenko Dep. 96:13-97:13, May 17, 2013.) Lane testified that what he knew about Babenko's business expertise came from Trudeau, (Evid. Hr'g Tr. 182:4-12, June 27, 2013), and that some of Trudeau's claims regarding her education "might have been somewhat exaggerated." (Evid. Hr'g Tr. 183:2-3, June 27, 2013.)
 - v. When setting up GIN FDN, Trudeau instructed Sant that Babenko did not run GIN and that she knew "nothing." (Evid. Hr'g Tr. 51:16-52:12, May 21, 2013; FTCX 11F.)
 - vi. In 2012, Babenko executed a Power of Attorney, appointing Marc Lane as her agent and authorizing Lane to act on her behalf with respect to all "business operations," and "financial institution transactions," among other powers. (FTCX 14W; FTCX 14, Babenko Dep. 103:7-9, 103:14-17, 103:25-105:23, 106:12-15, 107:5-9, 107:14-16, 107:24-108:16, 108:20-109:14, 109:19-20, May 17, 2013.) Babenko did not limit or remove any the powers for which Lane was authorized to act on her behalf. (FTCX 14W.)

vii. Sant asserted his Fifth Amendment right rather than testify regarding whether he reported to Trudeau or to Babenko. (FTCX 11, Sant Dep. 19: 8-20:8, May 9, 2013.)

b. Sant

i. Sant has known Trudeau for twenty years and has worked for him since 1996. (Evid. Hr'g Tr. 41:15-20, May 21, 2013; FTCX 4F at 14:21-15:6.) Trudeau's companies continue to pay Sant's legal fees. (FTCX 11A.)

ii. Sant served as Trudeau's nominee officer for seven companies that Trudeau owns or controls (six of which Marc Lane formed and all of which are located at 130 Quail Ridge Drive in Westmont). (FTCX 2A; FTCX 18A.) Among his many nominee roles, Sant was a KT Radio Network ("KTRN") officer, as well as the token President and Secretary of Website Solutions USA ("WSU"). (FTCX 2A; FTCX 18A.)

iii. Sant also served as a bank signatory for both WSU and KTRN. (FTCX 2B.)

1. Trudeau referred to Sant as his "right hand man" and that others should "chat with [Sant] as if he were me." (FTCX 11C; Evid. Hr'g Tr. 39:4-12, May 21, 2013)

2. Additionally, in 2008, Trudeau purchased gold bars from Golden Lion Mint ("Golden Lion"). (FTCX 19.) Trudeau paid for the gold bars with \$100,000 from a personal account. (FTXC 19.) On October 18, 2011, Sant travelled to Asheville, North Carolina, personally exchanged Trudeau's Golden Lion bars for \$100,000 worth of Scotia Bank gold bars, and left with \$100,000 in Scotia Bank gold. (FTCX 19.) When asked about both his gold bars and his activities at Rivers Casino, Trudeau asserted his Fifth Amendment right. (Tr. 111:4-25; 117:11-118:1 (May 21, 2013).

B. Control

1. Control Over the Companies' Finances

a. Trudeau's personal attorney and asset protection planner, Marc Lane, testified that Trudeau exercises control over the companies and over significant assets. Specifically, with respect to the GIN-Related Entities, Lane testified that Trudeau controlled them, at least "in a layman's sense." (Evid. Hr'g Tr. 172:4-5, June 27, 2013).

- b. In addition, Lane testified that, with respect to various GIN-Related Entities, Trudeau was “front and center in the picture” (Evid. Hr’g Tr. 55:10-24, June 26, 2013); that he “direct[ed] who would be running these corporations” (Evid. Hr’g Tr. 172:7-9, June 27, 2013); and that he decided who their owners would be (Evid. Hr’g Tr. 185:9-11, June 27, 2013).
- c. Lane accepted Trudeau’s representation that he was authorized to receive the legal advice that Lane provided to the various GIN-Related Entities, and Lane “understood all along that [Trudeau] really speaks for [these] entities[.]” (Evid. Hr’g Tr. 74:10-14, June 26, 2013.) Furthermore, according to Lane, their bookkeeping “infrastructure” for the GIN-Related Entities was “generally under Mr. Trudeau’s direction” (Evid. Hr’g Tr. 153:5-12, June 26, 2013), and he communicated with Trudeau regarding GIN’s bank accounts (Evid. Hr’g Tr. 155:23-156:9, June 26, 2013). Trudeau also was able to “access . . . cash” they held. (Evid. Hr’g Tr. 172:2, June 27, 2013.) Remarkably, Lane advised Trudeau regarding how he could protect his intellectual property rights associated with GIN “in the event of a separation from Natasha,” but he never consulted with Babenko regarding how such a separation would affect her intellectual property rights associated with GIN. (FTCX 12J; Evid. Hr’g Tr. 82:12-83:16, June 26, 2013.)
- d. Trudeau asserted his Fifth Amendment privilege rather than answer dozens of questions concerning his control over the GIN-Related Entities. (Evid. Hr’g Tr. 35-82, May 26, 2013). Both Sant and Babenko asserted the Fifth Amendment rather than answer questions regarding Trudeau’s control. (FTCX 11, Sant Dep. 31:8-33:13, 46:13 - 47:15, 56:2 - 57:1, May 9, 2013; FTCX 14, Babenko Dep. 25:14-27:15, 27:15-29:25, 40:4-17, 40:22-42:25, 43:6-44:7, 45:7-47:9, 47:10-48:9, 48:25-50:3, 86:14-88:5, 103:7-110:23, May 17, 2013.)
- e. Financial Control Over Specific Entities
 - i. GIN-Related Entities
 - 1. Trudeau used his company, KTRN, to pay the expenses for his butler and chauffeur and a personal chef. (FTCX 2C; FTCX 10, Dow Dep. 69:23-25, 71:17-23, May 8, 2013; FTCX 10F; FTCX 11J.)
 - 2. Beginning in 2009, Trudeau used a KTRN account to pay the \$12,000 monthly rent for expensive Oak Brook, Illinois home. From 2010 to March 2013, KTRN paid over \$500,000 towards Trudeau’s rent. (FTCX 10, Dow Dep. 49:5-11, May 8, 2013; FTCX 10D.)

3. Also beginning in 2009, various Trudeau-affiliated companies began paying Trudeau's personal expenses. (FTCX 11, Sant Dep. 13:2-13, May 9, 2013.) Specifically, Natural Cures paid Trudeau's personal credit bills prior to 2010, after which WSU paid Trudeau's personal credit and charge card bills (including American Express, Chase, Bank of America, and Diner's Club). (FTCX 10, Dow Dep. 72:16 - 74:13, 85:2-16, May 8, 2013; FTCX 10F; FTCX 10G.)
4. In addition to first-class flights and expensive hotels (the Ritz Carlton, the Four Seasons), Trudeau's credit card statements—bills all paid by Trudeau's companies—show hundreds of thousands of dollars in more mundane but obviously personal charges including groceries (often Whole Foods but sometimes Trader Joe's) (FTCX 6E; FTCX 6J), gym memberships (L.A. Boxing Club) (FTCX 6F-6G), salons (Vidal Sassoon) (FTCX 6H; FTCX 6I), and \$4,327.00 for draperies. (FTCX 6E.)
5. Trudeau authorized the GIN-Related Entities to open bank accounts overseas, stating "gin MUST get money out of the usa and into banks overseas...never keep more money in the usa than needed...TAP, NCINC, KTRN, NCHI, WSS, and every company NEEDS accounts OFF SHORE!!!!!!!!!! Very little money should be held in us accounts." (FTCX 11M.)
6. GIN FDN maintains a Liechtenstein bank account. (FTCX 10). In February 2012, Trudeau funded the escrow account he established under Part III of the Supplemental Order. GIN USA received this \$2 million from WSU, which itself received the money from GIN FDN. (Evid. Hr'g Tr. 52:13-53:14, 54:1-54:17, May 21, 2013; FTCX 11R; FTCX 12K; FTCX 3H.) Trudeau also arranged to have his salary at WSS paid from GIN FDN's Liechtenstein account. (FTCX 11R.) The "due from" items on GIN USA's P&L statement reflect this \$2 million as due from Trudeau himself. (See DX5A.)
7. Trudeau used his various businesses to pay the more than \$6.7 million in legal fees that generated in this case between June 2010 and March 2013 (FTCX 6C; FTCX 6D; FTCX 6E.) Specifically, Winston & Strawn received more than \$1.7 million in legal fees, including more than \$800,000 paid by IPT (which Trudeau owns) and more than \$300,000 paid by WSU (which Trudeau controls).

8. Additionally, Lane's firm, the Law Offices of Marc J. Lane, P.C., received over \$5 million in fees paid from companies both owned and controlled by Trudeau, including payments to Lane from GIN USA (FTCX 12C); GIN FDN (FTCX 12C; FTCX 12EE); KTRN (FTCX 12C); WSU (FTCX 12C); and WSS (FTCX 12C).
 9. WSS pays Trudeau's salary at his instruction. (Evid. Hr'g Tr. 41:4-5, May 21, 2013; FTCX 12I.) Trudeau arranges for GIN FDN to pay his WSS salary. (FTCX 11R.)
- ii. KMT Fiduciary Trust Entities
1. K.T. Corporation Limited owns Trudeau's home in Ojai, California. (FTCX 22 at 5; FTCX 26.) Lane prepared the Bill of Sale transferring the ownership of the home's furnishings to TruStar Productions. (FTCX 26.)
 - A. Trudeau offered bank statements from K.T. Corporation Limited (DX 9A-C), but no evidence regarding what other assets it holds (for example, the Ojai, California home).
 2. Trudeau used K.T. Corporation Limited to pay for personal expenses such as expenses associated with the Ojai, California home, including the monthly mortgage (nearly \$3,500 per month (FTCX 10F)) and landscaping service, and for the care for Trudeau's parents. (FTCX 10, Dow Dep. 18:15 - 19:17, 66:20 - 67:20, May 8, 2013; FTCX 10F.)
 3. The Law Offices of Marc J. Lane, P.C. received fees paid from the KMT Fiduciary Trust Entities, including payments to Lane from: Alliance Publishing Group, Inc.; Direct Response Associates LLC; KT Capital Corporation; K.T. Corporation Limited; Natural Cures Holdings Inc.; TRUCOM, L.L.C.; Trudeau Approved Products Inc.; TruStar Marketing Corporation; TruStar Productions, Incorporated; The Whistle Blower, Inc.; 0913372 B.C. Ltd.; and 0913376 B.C. Ltd. (FTCX 12C.)

4. Trudeau instructed the KMT Fiduciary Trust Entities (including Trudeau Approved Products, referred to as “TAP” and Natural Cures, referred to as “NCINC”) to open bank accounts overseas, stating “gin MUST get money out of the usa and into banks overseas...never keep more money in the usa than needed...TAP, NCINC, KTRN, NCHI, WSS, and every company NEEDS accounts OFF SHORE!!!!!!!!!! Very little money should be held in us accounts.” (FTCX 11M.)

iii. Trudeau-Owned Entities

1. The Law Offices of Marc J. Lane, P.C. received fees paid from the Trudeau Entities (International Pool Tour Inc.; Pool Licensing LLC; Trudeau Management Inc.; and Natural Cures Health Institute) (FTCX 12C.)
2. Natural Cures paid Trudeau’s personal credit card bills prior to 2010, after which WSU paid Trudeau’s personal credit card bills. (FTCX 10, Dow Dep. 72:16 - 74:13, 85:2–16, May 8, 2013; FTCX 10F; FTCX 10G.)
3. Trudeau instructed the Natural Cures Health Institute (referred to as “NCHI”) to open bank accounts overseas, stating “gin MUST get money out of the usa and into banks overseas...never keep more money in the usa than needed...TAP, NCINC, KTRN, NCHI, WSS, and every company NEEDS accounts OFF SHORE!!!!!!!!!! Very little money should be held in us accounts.” (FTCX 11M.)

iv. Other Entities

1. Babenko asserted her Fifth Amendment right rather than testify regarding Trudeau’s control over three additional entities she nominally owns, Sovereign Trust, N.T. Trading S.A., and Advantage Solutions. (FTCX 14, Babenko Dep. 40:18-41:13, 41:25-42:2, 42:22-25, 44:21-23, 137:1-3, 137:19-21; 50:12-52:24 (May 17, 2013).

2. Control Over the Companies’ Business Decisions

a. Trudeau controls the GIN-Related Entities. For example:

- i. Trudeau controls GIN USA. (Evid. Hr’g Tr. 46:6-47:13, 47:25-49:11, May 21, 2013).

1. Forming GIN was Trudeau's idea (FTCX12D; FTCX 31). In fact, Trudeau referred to the formation of GIN as part of his "vision." (FTCX 31.) Trudeau told Lane who would own GIN. (FTCX 12L.)
 2. Trudeau made legal decisions on behalf of GIN USA, including selecting GIN USA's attorneys, making strategic decisions on behalf of GIN USA, and receiving and requesting legal advice on behalf of GIN USA. (Evid. Hr'g Tr. 47:25-49:11, May 21, 2013; FTCX 11Q.)
- ii. Trudeau controls GIN FDN. (Evid. Hr'g Tr. 50:8-51:4, May 21, 2013; FTCX 11F).
1. Forming GIN was Trudeau's idea (FTCX12D; FTCX 31). In fact, the formation of GIN was Trudeau's "vision," including a GIN headquartered in Nevis. (FTCX12L.)
 2. Lane helped Trudeau open a bank account for GIN FDN in Liechtenstein at Valartis Bank. (FTCX 12U) Lane traveled to Liechtenstein, as did Sant and Babenko. (FTCX 11F; FTCX 12U.) When establishing the Liechtenstein bank account, Trudeau instructed Sant what to tell the bank officers, stating "the deal should be Natalie does not run GIN. She has turned it all over to you. You had GIN hire web solutions in zurich and America to handle everything and cpi and Jeff's company. You pretty much know everything...Natalie knows nothing." (FTCX 11F.)
 3. Lane and Lane's firm have access to GIN USA's accounting records. (Evid. Hr'g Tr. 169-172, June 27, 2013.)
 4. Lane advised Sant regarding GIN FDN's business operations. (FTCX 26.)
- iii. Trudeau controls KTRN. For example:
1. Trudeau told Lane who would own KTRN. (FTCX 12L.)
 2. Trudeau instructed Lane to "pull the trigger" and create KTRN. (FTCX12D).
 3. As recently as April 2013, Trudeau determined who the KTRN officers would be. (FTCX 11DD.)

4. Lane advised Trudeau on KTRN's intellectual property rights. (FTCX 12G.)
- iv. Trudeau controls APC. For example:
1. APC serves as the "management board" for GIN FDN. (FTCX 13J; FTCX 13K; FTCX 13L.) GIN FDN wholly owns GIN USA. (FTCX 13J.) APC also directly or indirectly owns the other GIN-Related Entities, including KTRN, NBT Trading, WSS, and WSU. (FTCX 13J; FTCX 13K; FTCX 13L; FTCX 41.)
 2. Trudeau and Lane helped create Sovereign Trust (FTCX 12H at 1-2), for which APC is the beneficiary. (FTCX 13K).
 3. Babenko asserted her Fifth Amendment right rather than respond to questions regarding whether Trudeau controlled APC. (FTCX 14, Babenko Dep. (May 17, 2013) at 27:16-17, 27:21-29:2, 29:10-29:25).
 4. Sant asserted his Fifth Amendment right rather than respond to questions regarding whether he reported to Babenko in her role as officer or director for various GIN-Related Entities, including APC. (FTCX 11, Sant Dep. 18:3-21:14, May 9, 2013.)
- v. Trudeau controls WSU. For example:
1. Trudeau made WSU's employment decisions, including setting Sant's salary and determining how much Trudeau would receive as a speaking fee on behalf of WSU. (FTCX 11O.)
 2. In addition, as recently as April 2013, Trudeau determined who the WSU officers would be. (FTCX 11DD.)
- vi. Trudeau controls WSS. For example:
1. The formation of WSS was part of Trudeau's "vision," whereby a GIN entity would contract with a new Swiss company called Website Solutions Switzerland. (FTCX 12I; FTCX 31.)
 2. Trudeau made business decisions on behalf of WSS, including decisions regarding: WSS's name change (FTCX 11R); WSS's bank account (FTCX 11R); and entering into agreements on behalf of WSS (FTCX 11R).

3. Lane provided advice to Sant regarding WSS's ownership and Swiss bank account. (FTCX 26.)
 4. Trudeau made employment decisions on behalf of WSS, such as the decision that WSS would "employ" Trudeau (Evid. Hr'g Tr. 41:4-5, May 21, 2013; FTCX 7A; DX 25 at 12) and payments of Trudeau's salary (FTCX 11R).
- vii. Trudeau controls NBT Trading Limited. For example:
1. NBT Trading Limited, a Hong Kong corporation, owns WSU (FTCX 13K; FTCX 41). NBT Trading Limited is wholly owned by APC. (FTCX 13K.)
 2. Babenko generated wire payments from her Fifth Third bank account to the NBT Trading Limited bank account at Valartis Bank in Liechtenstein. (FTCX 2D.)
 3. Sant asserted his Fifth Amendment right rather than respond to questions regarding whether he reported to Babenko in her role as officer or director for various GIN-Related Entities, including NBT Trading Limited. (FTCX 11, Sant Dep. 18:3-21:14, May 9, 2013.) Sant further asserted his Fifth Amendment right when asked whether Trudeau controlled NBT Trading Limited. (FTCX 11, Sant Dep. 32:18-20, May 9, 2013.)
 4. When asked whether Trudeau controlled NBT Trading Limited, Babenko refused to answer, citing the fact that the answer might incriminate her. (FTCX 14, Babenko Dep. 45:13-15, 46:16-47:9, May 17, 2013.)
- b. Trudeau controls the KMT Fiduciary Trust Entities. Specifically:
- i. Trudeau made legal decisions on behalf of KMT Fiduciary Trust. (Evid. Hr'g Tr. 48:6-10, May 21, 2013; FTCX 11Q.)
 - ii. Lane advised Trudeau regarding Natural Cures. (FTCX 22.)
 - iii. Lane performed legal work on behalf of KMT Fiduciary Trust. (FTCX 12E; FTCX 26.)
 - iv. Lane advised Trudeau regarding the transfer of KTRN's intellectual property rights to TruStar Marketing Corporation rather than to TruStar Management Inc. (FTCX 12G.)

- v. As recently as April 2013, Trudeau determined who the Alliance officers would be. (FTCX 11DD.)
 - vi. As recently as April 2013, Trudeau determined who the Trudeau Approved Products officers would be. (FTCX 11DD (referring to “TAP,” or Trudeau approved products.))
 - vii. Lane advised Trudeau regarding TruStar Productions, Inc. (FTCX 29.)
- c. Trudeau controls the Trudeau-Owned Entities. For example:
- i. Lane advised Trudeau regarding International Pool Tour Inc. (FTCX 12D.)
- d. Trudeau controls the Other Entities. In particular:
- i. Trudeau controls the legal decisions for the companies nominally owned by Babenko. (Evid. Hr’g Tr., 48:3-5, May 21, 2013; FTCX 11Q)
 - ii. When asked whether Sovereign Trust, NT Trading, and Advantage Solutions were asset protection vehicles that Trudeau has used to keep assets from the FTC, Babenko refused to answer, citing the fact that the answer might incriminate her. (FTCX 14, Babenko Dep. 44:8-45:6; 50:12-52:24, May 17, 2013.) Trudeau also “took the Fifth” with respect to Sovereign Trust. (Evid. Hr’g Tr. 105:2-16, May 21, 2013.)

C. Trudeau, and his Companies, Have Assets

1. GIN is a purported wealth building program and multilevel marketing scheme in which members pay \$1,000 to join and \$150 monthly dues (\$1,800 per year), and earn compensation by recruiting new members, *i.e.*, from their “downline.” Members receive 20 percent of the monthly dues and initiation fee paid by any new affiliates that they recruit. (FTXC 1V; FTCX 10, Dow Dep. 90:4-95:10, May 8, 2013.) At its peak, GIN had between 16,000 to 20,000 members. (FTCX 10, Dow Dep. 90:4-95:10, May 8, 2013.)
2. Trudeau is the highest ranking member of GIN (FTCX 10, Dow Dep. 90:4-95:10, May 8, 2013) and earns millions of dollars of commissions from GIN. (Evid. Hr’g Tr. 45:10-24, May 21, 2013). As of December 31, 2012 GIN FDN owed Trudeau \$911,303.50 in commissions. (FTCX 10, Dow Dep. 96:23-97:25, May 8, 2013; FTCX 10G at WSU 8696.)
3. KTRN and Natural Cures are also GIN members and earn compensation from GIN commissions. (FTCX 10, Dow Dep. 90:4-95:10, May 8, 2013; FTCX 10G at 8690; FTCX 10G at 8696.)

4. K.T. Corporation Limited owns Trudeau's home in Ojai, California. (FTCX 10, Dow Dep. 18:15 - 19:17, May 8, 2013; FTCX 26.)

III. ASSET CONCEALMENT

- A. The Court observed that the evidence presented thus far demonstrates an "elaborate scheme . . . to put [Trudeau's] assets beyond the reach of the FTC[.]" May 21, 2013 Tr. at 123:12-18.
- B. Trudeau, with Lane's assistance, worked to put Trudeau's assets beyond the reach of the FTC. (Evid. Hr'g Tr. , May 21, 2013) By way of further example, this evidence includes communications from asset protection specialist Marc Lane, whose firm's website touts its attorneys' "asset protection planning" capabilities. (FTCX 12O) Lane advised Trudeau how to keep his assets "protected" from the FTC:
 1. In September 2010, Lane advised Trudeau regarding "opening a bank account in a country which has been identified as not enforcing foreign judgments, and particularly U.S. judgments." (FTCX 20J.)
 2. Lane advised Trudeau that International Pool Tour ("IPT") "is subject to the claims for your creditors, including the FTC. For that reason, you should maintain only minimal cash (or other assets) in IPT or any company you own." (FTXC 12D.) Lane continued: "It may make sense for me to assume a greater role in cash management," in part "to maximize such asset-protection opportunities[.]" (FTCX 12D.)
 3. Lane advised Trudeau "that Trustar Marketing, and not Trudeau Management, own the domain name registration and other intellectual property relating to the [KTRN] radio show," because "[y]ou own Trudeau Management directly and, as such, all of its assets are subject to the FTC's claim." (FTCX 12G.)
 4. Lane advised Trudeau to "stay away from Asia Trust Limited," because, in other cases, Asia Trust Limited had "caved in" and "turned over . . . assets . . . to the FTC[.]" (FTCX 12H.)
 5. Lane advised Trudeau regarding "opening a bank account in a country which has been identified as not enforcing judgments, and particularly U.S. judgments[.]" (FTCX 20J.)
 6. In a 2007 email entitled "Asset Protection Planning," Lane wrote: "I know that Kevin credits the offshore structure for the relatively favorable settlement to which the FTC previously agreed." PXA:36 (FTCX 20Y).
 7. Trudeau instructed Lane that there was "no need to tell the FTC" about GIN. (Evid. Hr'g Tr. 36:17-37:1, May 21, 2013; FTCX 12:L) Lane also advised Trudeau that having the Global Information Network ("GIN") fund the court-ordered \$2 million bond was "an excellent idea," although "securing a bond and keeping it beyond the FTC's reach will require careful planning." (FTCX 12:K) (emphasis added).

8. Lane also prepared Trudeau's tax returns (which Trudeau introduced to show his alleged poverty (DX 25)). The Court already concluded that an earlier "balance sheet" (FTCX 102) that Lane prepared to demonstrate Trudeau's asserted poverty was "not worth the paper it is written on." Mem. Op. (Aug. 7, 2008) (DE157) at 9. At least \$6 million in federal and state tax liens have been filed against Trudeau. (FTCX 7D.)
- C. Lane helped Trudeau establish a bank account, with debit cards, in Switzerland. (FTCX 22.)
- D. As the litigation to recover money for consumers moved forward, Trudeau repeatedly instructed his associates to move assets and business operations offshore as much as possible. ((FTCX 12Q) ("[Y]ou need to take the lead on getting the gin website on servers outside the USA. . . . [A]nyplace is better than usa[.]"); (FTCX 20S) ("GIN needs a Swiss bank account in Swiss francs[.]"); (FTCX 11Y) (Dec. 11, 2012) ("All GIN dues will go to GIN non USA accounts."); (FTCX 11M) ("kt Australia account needs to be activated and debit card sent . . . asap"); (*id.*) ("gin MUST get money out of the usa and into banks overseas...never keep more money in the usa than needed...tap, ncinc, ktrn, nchi, wss, and every company NEEDS accounts OFF SHORE!!!!!!!!!!!!!!") (Trudeau's punctuation)).
- E. Trudeau used a casino to conceal assets. Between November 2011 to January 2012, Babenko and Trudeau purchased \$285,500 in casino chips, \$200,000 by Babenko and \$85,500 by Trudeau. They ultimately cashed out \$282,375 in chips, \$124,000 by Babenko and \$158,375 by Trudeau. (FTCX 1M.) Significantly, Babenko purchased all of her \$200,000 in chips on December 29, 2011, with funds transferred from a WSU bank account to the casino for her benefit. (FTCX 1O at pg. 5.) She withdrew the entire \$200,000 in chips on that same day. (FTCX 1O.) Video surveillance records show that she handed the chips to Trudeau while they were still at the cashier window. FTCX 1R.
- F. Moreover, Trudeau and Babenko were involved in a series of incidents at the casino illustrating his asset concealment, particularly with Babenko's assistance:
 1. On his first visit to the casino on November 20, 2011, Trudeau attempted to avoid federal currency transaction reporting requirements by cashing in over \$10,000 in chips but refusing to provide his social security number. He claimed that reporting was not required, he was not carrying any identification, and he resided in Italy. He later returned with an Italian passport. Casino personnel had to look up his social security number in a database. (FTCX 1N; FTCX 1Q.)
 2. Similarly, on December 29, 2011, before Trudeau and Babenko purchased \$200,000 in chips with the wire transfer from WSU, they first tried to open a credit account in Babenko's name. Casino personnel explained that Babenko could not open a credit account without a social security number, which she did not have. Eventually, Babenko cashed in the wire transfer for \$200,000 in chips, and handed them to Trudeau. (FTCX 1O; FTCX 1R.)

3. Finally, on April 6, 2012, Trudeau's domestic worker Matthew Green visited the casino by himself, driving a Jeep Rubicon titled to KTRN. He went directly to a cashier to cash in \$124,000 in chips. Casino records state that he was acting as an agent for Babenko. He received the cash in a brown paper bag and left the casino. (FTCX 1P; FTCX 1S.)
- G. Additionally, in 2008, Trudeau purchased gold bars from Golden Lion Mint ("Golden Lion"). (FTCX 19.) Trudeau paid for the gold bars with \$100,000 from a personal account. (FTXC 19.) On October 18, 2011, Sant travelled to Asheville, North Carolina, personally exchanged Trudeau's Golden Lion bars for \$100,000 worth of Scotia Bank gold bars, and left with \$100,000 in Scotia Bank gold that Trudeau originally purchased and almost certainly controls.
- H. On April 24, 2012, Trudeau asked to "find a place where I can buy gold in Switzerland." (FTCX 83)

IV. TRUDEAU'S SPENDING AND DISSIPATION OF ASSETS

- A. Trudeau spent at least \$12 million after the Court's June 2, 2010 Order To Pay through March of this year. When asked about charges for things ranging from groceries to internet dating, both Trudeau and Babenko invoked their Fifth Amendment privilege against self-incrimination. [Tr. 112:1-115:23 (May 21, 2013); FTCX 14 at 55:19-58:23]
- B. Credit Cards/Personal Spending
 1. From June 2, 2010 to March 2013, Trudeau \$3.28 million in Diner's Club and American Express payments charges (FTXC 18B). These charges include first-class airfare (FTCX 2G; FTCX 89-90); expensive hotels (the Ritz Carlton, the Four Seasons) (FTCX 2G; FTCX 89-90); groceries (often Whole Foods but sometimes Trader Joe's) (FTCX 6E; FTCX 6J); gym memberships (L.A. Boxing Club) (FTCX 6F-6G); salons (Vidal Sassoon) (FTCX 6H; FTCX 6I); and—one week after this Court ordered him to pay the \$37 million judgment—\$4,327.00 for draperies (FTCX 6E.).
 2. Trudeau has a history of extravagant personal spending. Between August 2007 and April 2009, these expenditures included \$122,000 on purchases at Tiffany and Co. and Whiteflash, purveyors of fine jewelry. (FTCX 2G.) In addition, Trudeau used his credit cards to spend at least \$143,000 on a private jet service, \$159,000 on airfare, \$207,000 on lodging, and \$70,000 on car rentals. (Id.).
 3. Trudeau denies having any personal property other than \$2000 worth of clothing, but spent more than \$15,000 in one trip to a high-end men's clothier in Zurich only months before he filed the "sworn" statement. (DX 25 at 6; FTCX 90 at 103).

4. Beginning in 2009, various Trudeau-affiliated companies began paying Trudeau's personal expenses. (FTCX 11, Sant Dep. 13:2-13, May 9, 2013.) For example, Trudeau's companies paid every dollar of nearly \$3 million in payments to Trudeau's personal American Express credit card. (FTCX 6C; FTCX 6D; FTCX 10 at 72:19-74:13) Specifically, Natural Cures paid Trudeau's personal credit bills prior to 2010, after which WSU paid Trudeau's personal credit and charge card bills (including American Express, Chase, Bank of America, and Diner's Club). (FTCX 10, Dow Dep. 72:16 - 74:13, 85:2-16, May 8, 2013; FTCX 10F; FTCX 10G.) Both Trudeau and Babenko asserted their Fifth Amendment rights when asked about credit card charges. (Tr. 112:1-115:23 (May 21, 2013); FTCX 14 55:19-58:23).

C. Automobile Spending

1. In 2011, WSU paid \$340,319 for a 2011 Bentley registered in its name. (FTCX 1J; FTCX 2C). In 2010, Babenko purchased a 2010 Dodge Challenger titled in her name for approximately \$48,000. (FTCX 1K; FTCX 2D at 1-2). Finally, KTRN purchased a 2011 Jeep Rubicon registered in its name for \$36,000 (FTCX 2C; FTCX 1L), which one of the domestic staff who worked for Trudeau drove.

D. Homes

1. KTRN, of the entities Trudeau controls, spent more than \$500,000 to rent the Oak Brook, Illinois home in which Trudeau resided until recently. (DX 10A.)
2. KT Corp., holds legal title to Trudeau's home located at 601 Del Oro Drive, Ojai, California. (FTCX 1D; FTCX 22 at 5).
3. Trudeau spent tens of thousands of dollars Trudeau spent to appoint his new Swiss residence with luxury goods. (FTCX 89 at 21) (more than \$58,000 spent at a Zurich furniture store) (FTCX 89 at 26) (more than \$53,000 spent at another Zurich furniture store); (FTCX 90 at 124) (more than \$35,000 spent on floor coverings in Zurich) (FTCX 89 at 21)

E. Attorneys' Fees

1. Since the Court's June 2, 2010 Order To Pay, Trudeau has spent at least \$6.78 million on attorneys fees: \$5.05 million to the Lane's firm (FTCX 18D), and \$1.73 million to Winston & Strawn (FTCX 18E).

F. Escrow Fund

1. Through GIN FDN, Trudeau paid \$2 million to fund an escrow account so that Trudeau could resume broadcasting infomercials (FTCX 3H).

V. LACK OF EVIDENCE PUT FORTH BY TRUDEAU

- A. Trudeau offers no evidence explaining what happened to the \$14 million in net profit that GIN USA's "profit and loss" statement reports. (DX 5A)
- B. Trudeau offers no evidence explaining WSU's "profit and loss" statement, which reflects more than \$486,000 in transfers to Trudeau (and more than \$523,000 to Babenko). (DX 24A)
- C. Trudeau offers no evidence explaining dozens of intercompany transfers. (FTXC 12-CC-2). Lane documented some of these transfers through promissory notes; for instance, more than \$1 million transferred from GIN FDN to KTRN in 2012. (FTX 14J) Some of these transfers appear on the "profit and loss" statements of GIN USA, KTRN, and WSU as "Due From" entries. For example, GIN USA transferred more than \$7.5 million to Trudeau-controlled entities not associated with GIN, including approximately \$1 million to International Pool Tour ("IPT"), which Trudeau owns, \$1.3 million to Trudeau Approved Products (a KMT Entity that Trudeau controls), and \$5.2 million to Natural Cures (another KMT Entity that Trudeau controls). DX 5A. KTRN transferred \$4.9 million to Natural Cures and more than \$900,000 to IPT. (DX 10A) WSU transferred \$7.7 million to GIN FDN, \$1.4 million to Trudeau Approved Products (DX 19A), and more than \$600,000 to Natural Cures. (DX 24A) Trudeau offers no evidence explaining any of these transfers.
- D. The only information Trudeau offered regarding GIN FDN's assets are 2010 account statements from an Ohio bank. (DX 4.) GIN FDN maintains a Liechtenstein bank account from which Trudeau withdrew \$2 million (FTCX 10) to fund the court-ordered escrow the Court required him to fund before he could resume infomercials, but Trudeau offered no evidence regarding this account. GIN FDN also wired money to Lane from an account at National Westminster Bank in the United Kingdom, but Trudeau offered no evidence regarding this account.
- E. Trudeau also offered no evidence regarding other offshore entities he controls through Babenko, including APC, Sovereign Trust, N.T. Trading, NBT Trading, Advantage Solutions, and WSS.
- F. The information Trudeau introduced regarding the domestic entities he controls through KMT Fiduciary Trust is limited and incomplete. Trudeau offered no evidence regarding the physical assets the KMT Entities own, although one such company owns Trudeau's Ojai, California house (FTCX 22 at 5), and another KMT Entity owns the home's contents. Trudeau offered no balance sheets, profit and loss statements, or tax returns for any of the KMT Entities. Trudeau offered no testimony regarding these entities (when Trudeau and Sant were asked about these entities, they asserted the Fifth Amendment rather than respond). Trudeau does introduce "weekly cash flow" reports for these entities reflecting one week of activity in April 2013, but these reports are themselves incomplete and, in any event, do not establish anything beyond the one week they summarize (including whether cash was removed before printing the report). Additionally, Trudeau introduces a selection of KMT Entity bank account statements, but there is no way to know whether these accounts are the only accounts the KMT Entities hold.

Furthermore, the KMT Entity bank account statements do not cover the entire period from June 2, 2010 to the present.

- G. With respect to KMT Entity Natural Cures, Trudeau introduced no evidence explaining the facts that suggest it possessed (and may still possess) assets. In 2009, attorneys at Lane's firm noted that Natural Cures was "revenue generating," and had the "potential to be sold or taken public through an initial public offering." (FTCX 12M at 762) Also in 2009, Lane wrote that Natural Cures "has one of the highest earnings of any of the companies in the group" of firms owned by Trudeau or KMT. (FTCX 20U) Although the Natural Cures April 2013 "weekly cashflow summary," provides an incomplete picture, it shows \$20.3 million in accounts receivable against only \$15.7 million in "bills due." (DX13A) At least \$10 million of the "bills due" are amounts owed to GIN-related entities, and the exhibit provides no information regarding the receivables. (See id.) Trudeau offers no evidence addressing these facts.
- H. With respect to KMT Entity Natural Cures Holdings ("NCH"), Trudeau offers no evidence explaining how it made \$557,171 in payments to the Lane firm after June 2, 2010. (FTCX 18D). In fact, Trudeau offers only two pieces of evidence regarding NCH: a Westlaw printout stating basic, non-financial information about the company (DX 12A) and a bank account statement showing that the company closed an account in 2011 (DX 12B). However, NCH continued to make payments to Lane's firm in 2012 (see FTCX 12C), which illustrates that the financial information Trudeau provided regarding NCH's accounts is incomplete.
- I. Trudeau's evidence is also significantly incomplete regarding the entities he owns directly (International Pool Tour ("IPT"), Pool Licensing, and Trudeau Management) and his legal defense fund (Natural Cures Health Institute). Trudeau offered no testimony regarding these entities, and their various financial records are incomplete. Trudeau also failed to offer evidence explaining how IPT made \$829,901 in payments to Winston & Strawn after June 2, 2010 (FTCX 18E), along with another \$140,836 to Lane's firm (FTCX 18D).
- J. In Trudeau's sworn financial statement, Trudeau does not disclose asset transfers (DX 25), he claims to hold only \$4500 at three banks with "address[es] unknown" to him (DX 25 at 4), and he denies knowing anything about his wife, including her street address, whether she owns vehicles, or what other assets she has. (DX 25 at 4.) Trudeau even denies having any personal property other than \$2000 worth of clothing, (DX 25 at 4) –although he spent more than \$15,000 in one trip to a high-end men's clothier in Zurich only months before he filed the "sworn" statement. (FTCX 90 at 103.)
- K. Trudeau offered no evidence explaining how his millions in credit card expenses were paid. Trudeau also has not offered documents or testimony establishing that his millions in credit card expenses are all business expenses. (FTCX 6A-J.)
- L. Trudeau's evidence does not explain what happened to the \$100,000 worth of gold bars he purchased in 2008 (which Trudeau's "right hand man" Neil Sant swapped for Scotia Bank gold bars in 2011). (FTCX 19.)

- M. Trudeau and Babenko purchased \$285,500 in casino chips between November 2011 and January 2012 (\$200,000 by Babenko and \$85,500 by Trudeau). (FTCX 1N; FTCX 1O; FTCX 1P.) Trudeau then cashed out \$158,375 in casino chips (and Babenko cashed out another \$124,000). (FTCX 1N; FTCX 1O; FTCX 1P.) None of Trudeau's evidence explains what happened to this money. Furthermore, when asked about their casino activities, both Trudeau and Babenko asserted their Fifth Amendment rights rather than respond. (Tr. 11:4-25, FTCX 14:77-78:18.)
- N. None of Trudeau's evidence explains how he can afford a personal "Executive Project Manager." (FTCX 11 at 80:6-14; FTCX 11Z; FTCX14 at 58:24-59:23.)
- O. Finally, none of his evidence addresses how companies he controls – and companies he indisputably owns – have paid more than \$6.7 million in legal expenses since June 2, 2010. (FTCX 18D-E.)

VI. LACK OF CREDIBILITY

- A. The Court previously found that Trudeau is not credible. See *FTC v. Trudeau*, 708 F. Supp. 2d 711, 716 (N.D. Ill. 2010) ("Trudeau has little credibility with this court. Based on his demeanor and conduct, the court has found, and continues to find, that Trudeau cannot be trusted."); *FTC v. Trudeau*, 572 F. Supp.2d 919, 924 (N.D. Ill. 2008) ("Trudeau is not a credible witness."). Nothing Trudeau presented changes that finding.
- B. In fact, Trudeau's lavish lifestyle and his attempts to hide assets reinforce that finding, as well as the Court's prior prediction that "Trudeau is a very creative person who is likely to maintain the lifestyle to which he has become accustomed." *FTC v. Trudeau*, 572 F.Supp.2d 919, 925 (N.D. Ill. 2008).
- C. Furthermore, based on both Trudeau's conduct in litigation regarding Weight Loss Cures and the evidence before the Court with respect to the FTC's pending contempt motion, the Court gives no weight to his assurances that he has made efforts to comply or his promises that he will attempt to comply in the future.

PROPOSED CONCLUSIONS OF LAW

I. THE FTC'S *PRIMA FACIE* CASE

- A. A *prima facie* contempt case exists when (1) the order sets forth an unambiguous command; (2) the defendant violated that command; (3) the violation was significant, meaning the defendant did not substantially comply with the order; and (4) the defendant failed to take steps to reasonably and diligently comply with the order. *FTC v. Trudeau*, 579 F.3d 754, 763 (7th Cir. 2009).
- B. The Court's June 2, 2010 order (the "Order To Pay") unambiguously commands Trudeau "to pay forthwith to plaintiff the sum of \$37,616,161, representing the consumer loss resulting from Trudeau's contumacious and deceptive infomercial marketing of the Weight Loss Cure book." Order To Pay (DE372) at 13-14.
- C. It is undisputed that Trudeau has not paid \$37,616,161.
- D. Trudeau has not paid anything beyond two "eleventh-hour," token payments totaling \$54,000. Accordingly, Trudeau has not "substantially complied" with the Order To Pay.
- E. As the Court already found, Trudeau's \$54,000 payment (not made until after the FTC filed the pending contempt motion) and his proposal to self-administer a "consumer remediation plan" were not "reasonable and diligent" efforts to comply. *See* Order (DE535) (Dec. 6, 2012).
- F. Accordingly, as the Court already found, the FTC "establish[ed] a *prima facie* showing of contempt." *Id.* at 2.

II. TRUDEAU'S BURDEN

- A. Because the FTC has established a *prima facie* case, the burden "shifts to the defendant to demonstrate why he was unable to comply with the order." *FTC v. Trudeau*, 567 F. Supp.2d 1016, 1020 (N.D.Ill. 2007); *see also SEC v. Custable*, No. 94 C 3755, 1999 WL 92260, *2 (N.D. Ill. Feb. 11, 1999) (*citing United States v. Rylander*, 460 U.S. 752, 757 (1983)).
- B. Only if the defendant satisfies the burden of production does the burden of persuasion shift back to the complainant, who then must prove that defendant actually has the ability to comply. *Custable*, 1999 WL 92260 at *3 (citations omitted).
- C. To meet his burden, Trudeau must do more than simply assert an inability to pay. *See, e.g., In re Kademoglou*, 199 B.R. 35, 36 (N.D. Ill. 1996).
- D. Trudeau must credibly show a "complete inability" to pay by establishing "clearly, plainly, and unmistakably that compliance is impossible." *In re Resource Tech. Corp.*, 624 F.3d 376, 387 (7th Cir. 2010) (*citing Marine Midland Bank*, 51 F.3d 5, 10 (2d Cir. 1995)) (emphasis added).

- E. Trudeau must show “categorically and in detail” his complete inability to pay. *See, e.g., FTC v. Affordable Media, LLC*, 179 F.3d 1228, 1241 (9th Cir. 1999) (quotation omitted).
- F. Because an “inability to comply” defense is unavailable to a defendant responsible for his own inability to comply, Trudeau must also show that any inability to pay was not self-induced. *See, e.g., United States v. Bryan*, 339 U.S. 323, 330-32 (1950) (noting that a party may be held in contempt for failing to produce documents that he does not possess if “he is responsible for their unavailability”); *Chicago Truck Drivers Union v. Brotherhood Labor Leasing*, 207 F.3d 500, 506 (8th Cir. 2000) (“[A] mere assertion of ‘present inability’ is insufficient to avoid a civil contempt finding. Rather, alleged contemnors defending on the ground of inability must establish . . . that their inability to comply was not self-induced[.]”) (citation omitted); *In re Power Recovery Sys., Inc.*, 950 F.2d 798, 803 (1st Cir. 1991) (“[A] party may defend contempt and failure to comply on the grounds that compliance was impossible; self-induced inability, however, does not meet the test.”); *Pesaplastic, C.A. v. Cincinnati Milacron Co.*, 799 F.2d 1510, 1521-22 (11th Cir. 1986) (“In the present case, Tedruth and the Law Firm cannot raise the defense of impossibility because their own actions were responsible for their subsequent inability to comply.”); *United States v. Lay*, 779 F.2d 319, 320 (6th Cir. 1985) (upholding contempt finding where defendant induced his purported inability to pay by divesting himself of assets); *United States v. Seetapun*, 750 F.2d 601, 605 (7th Cir. 1984) (holding that District Court committed clear error when it declined to hold defendant in contempt; court failed to analyze facts in accordance with contempt authority governing “those responsible for their own inability to comply with enforcement orders”) (citing *Bryan*, 339 U.S. at 330-32) (citation omitted).¹
- G. Citing *Maggio v. Zeitz*, 333 U.S. 56 (1948), Trudeau contends that only his “current” ability to pay matters. *Maggio*, however, concerns not whether an alleged contemnor has a valid “inability to comply” defense to contempt, but how long a court can continue to incarcerate someone it has already found in contempt. *See id.* at 376. Specifically, *Maggio* holds that, “[s]ince it is impossible to succeed in coercing that which is beyond a person’s power to perform, continued incarceration for civil contempt ‘depends upon the ability of the contemnor to comply with the court’s order.’” *In re Grand Jury Investigation*, 600 F.2d 420, 423 (3d Cir. 1979) (quoting *Maggio*, 333 U.S. at 76) (emphasis added). Therefore, under *Maggio*, the Court cannot incarcerate Trudeau as a coercive contempt sanction if he proves that he cannot presently pay anything more, nor can the Court continue his coercive incarceration if, in the future, he proves that he cannot presently pay anything more. Thus, *Maggio* does not alter or conflict with the extensive authority that, to prove an “inability to pay” defense to contempt, an alleged contemnor must show that any inability was not self-created.

¹ *See also SEC v. Douglas*, No. 3:82cv29, 2012 WL 3587203, *8-*9 (N.D. Ohio Aug. 20, 2012) (rejecting self-induced inability to pay as a defense; “divesting oneself of assets that would otherwise have been available to satisfy a disgorgement order has routinely been condemned by the courts”); *SEC v. Goldfarb*, No. C 11-00938, 2012 WL 2343668, at *6 (N.D. Cal. June 20, 2012) (finding inability to pay self-induced; “Instead of paying down money owed on the final judgment, defendant Goldfarb chose to continue to support his luxurious lifestyle.”).

- H. Finally, Trudeau must show that he has made in good faith “all reasonable efforts” to comply. *Chicago Truck Drivers*, 207 F.3d at 506; *In re Power Recovery Sys., Inc.*, 950 F.2d 798, 803 (1st Cir. 1991); *Affordable Media*, 179 F.3d at 1239 (quotation omitted).
- I. Courts strictly construe the “all reasonable efforts” standard. Even a showing of diligent and substantial efforts, without a showing of all reasonable efforts, is insufficient to rebut a *prima facie* showing of contempt. *Custable*, 1999 WL 92260 at *2. When an alleged contemnor asserts an “inability to pay” defense, but has dissipated assets rather than pay, he necessarily has not made “all reasonable efforts” to comply. A defendant ordered to pay cannot avoid contempt by dissipating assets and then asserting he cannot comply.
- J. An “inability to pay” contempt defense is a “difficult” one to establish. *Dystar Corp. v. Canto*, 1 F. Supp. 2d 48, 55 (D. Mass. 1997).

III. TRUDEAU UTTERLY FAILED TO ESTABLISH AN INABILITY TO PAY.

- A. Trudeau controls multiple entities that his wife, Nataliya Babenko, nominally owns. FOF II.B.1.a-d. These entities include six enterprises associated with the “Global Information Network” (GIN USA, KT Radio Network, Website Solutions USA (“WSU”), Website Solutions Switzerland,² Global Information Network FDN (“GIN FDN”), APC Trading, and NBT Trading), as well as three other offshore entities (Sovereign Trust, Advantage Solutions, and N.T. Trading S.A.). FOF II.A, II.B. Trudeau also controls an offshore trust (KMT Fiduciary Trust), which directly or indirectly owns multiple companies (including, among others, Alliance Publishing, Direct Response Associates, K.T. Corporation, Natural Cures, Natural Cures Holdings, TRUCOM, Trudeau Approved Products, Trustar Marketing, Trustar Productions). FOF II.A, II.B. Finally, Trudeau is the legal or *de facto* owner various domestic entities including, among others, International Pool Tour, Trudeau Management, and Natural Cures Health Institute (which Trudeau operates as a legal defense fund). FOF II.A, II.B.
- B. Trudeau’s control over these domestic and offshore entities is evident from his communications with “asset protection” specialist Marc Lane, Trudeau’s communications with his “right hand man” Suneil Sant, and from Lane’s testimony. FOF II.B.1.a.-d, e; II.B.2.. Trudeau offered no contrary evidence suggesting that he did not control the entities at issue.

² This entity may have changed its name and corporate form to Sales Solutions International, A.G. FOF II.A.2.f.

- C. Additionally, Trudeau, Sant, and Babenko asserted their Fifth Amendment right against self-incrimination rather than respond to numerous questions regarding Trudeau's control over the various entities at issue. As such, the Court infers that their responses, if given, would have been adverse to Trudeau (specifically, the Court infers that the responses, if given, would have established that Trudeau controls the entities at issue). *See, e.g., Cent. States, S.E. & S.W. Areas Pension Fund v. Wintz Props., Inc.*, 155 F.3d 868, 872 (7th Cir. 1998) (“[I]nvoking the Fifth Amendment in a civil context invites an inference that the witness’ testimony would be adverse to his interests[.]”) (citing *Baxter v. Palmigiano*, 425 U.S. 308, 318 (1976)); *State Farm Mut. Auto. Ins. Co. v. Abrams*, No. 96 C 6365, 2000 WL 574466 at *6 (N.D. Ill. May 11, 2000) (“Most of the courts that have imputed adverse Fifth Amendment inferences from one party to another have done so where there is a close family or business relationship between the person who exercised the Fifth Amendment right and the individual against whom an adverse inference is drawn.”). This further supports the conclusion that Trudeau controls the entities at issue.
- D. Because Trudeau controls numerous domestic and offshore companies, two offshore trusts, the Nevis-based Global Information Network Foundation (“GIN FDN”), and a legal defense fund (“Natural Cures Health Institute”), he has the burden to produce evidence demonstrating “clearly, plainly and unmistakably” that these entities did not have assets he could have used to comply with the Order To Pay. *See, e.g., Resource Tech.*, 624 F.3d at 387 (citation omitted).
- E. Trudeau introduced financial records concerning only a subset of the domestic entities at issue. Trudeau introduced no evidence concerning GIN FDN’s offshore accounts. Furthermore, Trudeau introduced no evidence at all concerning APC Trading Limited, Sovereign Trust, N.T. Trading S.A., NBT Trading Limited, Advantage Solutions Ltd., and Website Solutions Switzerland.
- F. Additionally, the financial records Trudeau provided regarding his domestic entities are plainly incomplete. In most cases, Trudeau introduced only selected bank statements and recent “weekly cash flow summaries.” These records do not reveal what cash these entities held in the past, what cash they currently hold in other undisclosed accounts, or what non-cash assets they hold. For instance, Isle of Man entity K.T. Corporation owns Trudeau’s Ojai, California home, FOF II.C.4, which K.T. Corporation’s bank statements and “weekly cash flow summaries” do not reflect.
- G. Trudeau’s extremely incomplete financial records do not establish “clearly, plainly and unmistakably” that Trudeau does not control assets that he could use to comply with the Order To Pay. *See, e.g., Resource Tech.*, 624 F.3d at 387 (citation omitted).

- H. Trudeau also failed to present evidence explaining what happened to specific corporate and personal assets that he could have used to comply with the Order To Pay. Among other things, GIN USA earned more than \$14 million since its inception, DX 5A, but Trudeau offers no evidence regarding where this money went. There are also many suspect intercompany transfers between Trudeau's companies. DX 24A, FOF V.C. Many of these transfers involved millions of dollars, *see* DX 5A, 10A, and 24A, but Trudeau offers no evidence explaining them. Additionally, the WSU "profit and loss" statement Trudeau produced (DX 24A) reflects \$486,000 in transfers to Trudeau (and \$523,000 to Babenko), but Trudeau does not explain where this money went. Furthermore, the FTC presented evidence that Trudeau purchased \$100,000 in gold bars, FOF II.A.5.b., FOF III.G, and cashed out \$158,375 in casino chips from Rivers Casino (Babenko cashed out another \$124,000), FOF III.E-F, but Trudeau introduced no evidence concerning the gold bars or his casino activities.
- I. In fact, when asked about these subjects, both Trudeau and Babenko refused to answer on Fifth Amendment grounds, from which the Court infers that their answers would have been adverse to Trudeau. Specifically, the Court infers that Trudeau controls \$100,000 in gold bars and \$282,375 in cash that he and his wife received from Rivers Casino. For this reason as well, Trudeau has not met his burden to produce evidence demonstrating "clearly, plainly and unmistakably" that he cannot pay anything more to compensate his victims. *See, e.g., Resource Tech.*, 624 F.3d at 387 (citation omitted).
- J. Trudeau introduced his personal tax returns. These tax returns, however, are not credible. At least \$6 million in federal and state tax liens have been filed against Trudeau, which suggests that Trudeau has understated his income to authorities previously. Additionally, Trudeau's corporate counsel Marc Lane prepared the returns. In 2008, Lane prepared a "balance sheet" that purported to show Trudeau's poverty, but the Court concluded that the "balance sheet" was "not worth the paper it is written on." Mem. Op. (Aug. 7, 2008) (DE157) at 9. Most important, the tax returns—even if accurate—would not disclose hidden assets that Trudeau has disguised as Babenko's, or as the property of an offshore trust.
- K. Trudeau also introduced a sworn financial statement in which he claims to have no material assets. The financial statement is not credible for numerous reasons, including that it provides no information about entities his wife nominally owns, or about the offshore trusts that he controls.
- L. Additionally, after the hearing concluded, Trudeau attempted to introduce a report apparently prepared by accountants who analyzed financial records that Trudeau provided them. Because the report is hearsay and was not disclosed to the FTC until after the hearing, the report is inadmissible. In addition, the report only concerns Trudeau's domestic entities and merely summarizes limited financial information that WSU's CFO (Michael Dow) provided to the authors. It is not an audit of that financial information, and the authors made no effort to verify the accuracy or completeness of the information Dow provided. Accordingly, even if the Court admitted the report, it would not alter the finding that Trudeau has not met his burden.

- M. Finally, at trial, Trudeau did not call any witnesses. When the FTC called Trudeau, he asserted his Fifth Amendment privilege in response to 382 questions. This does not satisfy his burden. *See, e.g., United States v. Rylander*, 460 U.S. 752, 758-62 (1983) (asserting the Fifth Amendment in a contempt proceeding is no substitute for proving one's inability to comply with the court's order).

IV. TRUDEAU CONTROLS SIGNIFICANT ASSETS, HAS DISSIPATED MILLIONS, AND HAS HIDDEN ASSETS.

- A. In addition to the evidence that Trudeau controls assets (including, for example, the \$14 million in GIN USA net profit, the \$486,000 WSU transferred to Trudeau, the Ojai, California home, the Rivers Casino proceeds, and the gold bars Trudeau purchased), the FTC established that Trudeau dissipated at least \$12 million since the Court entered the Order to Pay. This \$12 million includes \$5.05 million paid to Lane's firm, FOF II.B.1.e.i.8, \$1.73 million paid to Trudeau's litigation counsel, FOF II.B.1.e.i.7, \$2 million GIN FDN paid to fund a court-ordered escrow account so that Trudeau could resume broadcasting infomercials, FOF II.B.1.e.i.6, and \$3.28 million in Diner's Club and American Express charges, FOF IV.B.4.
- B. The credit card charges include hundreds of thousands of dollars in luxury goods (including purchases made to appoint Trudeau's new Zurich residence), FOF IV.B, and hundreds of thousands of dollars of more mundane but obviously personal expenses (groceries, haircuts, gym memberships, and so forth), FOF IV.B. When asked about these charges, both Trudeau and Babenko invoked their Fifth Amendment privilege, FOF IV.A, entitling the FTC to an inference that Trudeau could have used those funds to comply with the Order To Pay.
- C. Accordingly, if Trudeau truly cannot pay more than the \$54,000 token payment he made, that inability is self-created, and Trudeau's "inability to pay" defense fails for this reason as well. *See, e.g., Bryan*, 339 U.S. at 330-32; *Seetapun*, 750 F.2d at 605.
- D. The evidence demonstrates that Trudeau engaged in substantial efforts to hide assets from the FTC. Trudeau's counsel, Marc Lane, is a self-professed specialist in "asset protection planning." FOF III.B. Lane provided Trudeau with advice regarding how to keep Trudeau's assets from the FTC, including the advice to "maintain only minimal cash (or other assets) in IPT or any company you own," FOF III.B.2, advice regarding "opening a bank account in a country which has been identified as not enforcing judgments, and particularly U.S. judgments," FOF III.B.1, and advice to "stay away from" an offshore trust company that had previously "caved in" and "turned over . . . assets . . . to the FTC," FOF III.B.4.
- E. In addition to the advice he received from Lane, Trudeau instructed his subordinates to move assets and business operations offshore as much as possible. FOF III.D.
- F. Trudeau's efforts to hide money and live lavishly are consistent with the Court's prior findings that "Trudeau is a very creative person who is likely to maintain the lifestyle to which he has become accustomed," *FTC v. Trudeau*, 572 F.Supp.2d 919, 925 (N.D. Ill. 2008), and that Trudeau cannot be trusted, *see FTC v. Trudeau*, 708 F. Supp. 2d 711, 716 (N.D. Ill. 2010) ("Trudeau has little credibility

with this court. Based on his demeanor and conduct, the court has found, and continues to find, that Trudeau cannot be trusted.”), *FTC v. Trudeau*, 572 F. Supp.2d 919, 924 (N.D. Ill. 2008) (“Trudeau is not a credible witness.”). The Court has already found, and continues to find, that Trudeau is not credible. Given Trudeau’s contemptuous history, his lavish lifestyle, and his attempts to hide assets, his general claim of poverty is not credible and carries no weight.

- G. Trudeau’s extensive “asset protection” effort (moving assets offshore, placing them in trusts, and funneling them through entities his wife controls) provides still further evidence that Trudeau has not established an “inability to pay.” In fact, the evidence, viewed as a whole, establishes that Trudeau could have paid vastly more than he has, and that Trudeau continues to control significant assets that he could use to comply with the Court’s order that he compensate his victims.
- H. Trudeau is in contempt of the Court’s June 2, 2010 Order To Pay.

V. INCARCERATION IS THE ONLY WAY TO COERCE TRUDEAU TO COMPLY WITH THE COURT’S ORDER TO PAY.

- A. The Court has the inherent power to enforce its Order To Pay by holding Trudeau in civil contempt and imposing coercive sanctions. *See, e.g., Shillitani v. United States*, 384 U.S. 364, 370 (1966); *United States v. United Mine Workers of Am.*, 330 U.S. 258, 303-04 (1947); *Jones v. Lincoln Elec. Co.*, 188 F.3d 709, 737 (7th Cir. 1999).
- B. The Seventh Circuit and other circuits have repeatedly held that analogous orders to pay monetary relief are enforceable by contempt. *See, e.g., Resource Tech.*, 624 F.3d at 376 (holding company in contempt for violating order to pay \$500,000 into escrow account); *Central States Fund v. Wirtz*, 155 F.3d 868, 875-76 (7th Cir. 1998) (holding company owner in contempt for violating order to pay employee pension liability payments); *Huber v. Marine Midland Bank*, 51 F.3d 5, 11 (2d Cir. 1995) (holding attorney in contempt for failing to pay court-ordered fines); *CFTC v. Wellington Precious Metals*, 950 F.2d 1525, 1529-30 (11th Cir. 1992) (securities fraud disgorgement order enforceable by contempt).
- C. FRCP 69(a)(1) provides that “[a] money judgment is enforced by a writ of execution, unless the court directs otherwise.” (Emphasis added). This “otherwise clause” allows courts to enforce judgments through other means (such as contempt) when “well-established principles so warrant.” *Aetna Cas. v. Markarian*, 114 F.3d 346, 349 (1st Cir. 1997). These principles include “action[s] to pay an obligation imposed by statute in order to enforce the public policies embodied in the statutory scheme.” *Id.* at 349 n.4 (citing *McComb v. Jacksonville Paper Co.*, 336 U.S. 187, 193-95 (1949)).³

³ *See also Trustees of the Chi. Truck Drivers Pension Fund v. Cent. Transport, Inc.*, No. 86 C 6224, 1990 WL 253616, at *1 (N.D. Ill. Dec. 17, 1990) (noting that, when the order is in the form of an injunction to “enforce[e] an important public policy,” Rule 69(a) allows enforcement through contempt); *Robbins v. Labar Transp. Corp.*, 599 F. Supp. 705, 708 (N.D. Ill. 1984) (explaining that if the judgment were only one for routine “money damages, plaintiffs would not be entitled to seek to enforce the judgment through invocation of the court’s contempt

- D. The FTC is seeking to enforce an order based on a serious violation of the FTC Act. When a court issues an order to pay that furthers “public policies embodied in [a] statutory scheme,” the order to pay necessarily directs that enforcement alternatives include contempt. *See Markarian*, 114 F.3d at 349 n.4. Accordingly, the FTC may enforce the Order To Pay through contempt.
- E. In fact, Courts of Appeals have twice reversed District Courts that have erroneously required an agency enforcing an order to use execution. *See Usery v. Fisher*, 565 F.2d 137, 140 (10th Cir. 1977) (“[W]e conclude the trial court erred in holding that the Secretary should resort to execution or garnishment, and [in] denying the petition for contempt because the Secretary failed to do so.”); *Hodgson v. Hotard*, 436 F.2d 1110, 1113 (5th Cir. 1971) (“The District Court’s refusal to hold Hotard in contempt rests on the erroneous assumption that a judgment entered pursuant to section 17 of the Fair Labor Standards Act is merely a money judgment, which under Florida law is enforceable only by levy or execution against Hotard’s property. The fallacy implicit in this assumption is its premise that no public right is involved.”).
- F. Under FRCP 69(a)(1), the Federal Debt Collection Procedures Act, 28 U.S.C. § 3001, *et seq.*, also presents an alternative means pursuant to which the FTC theoretically could execute against Trudeau’s assets. Specifically, FRCP 69(a)(1) provides that the procedure for enforcing a money judgment is governed by the law of the state where the court is located, “but a federal statute governs to the extent it applies.”
- G. The FDCPA is such a federal statute because it “provides the exclusive civil procedures for the United States to . . . recover a judgment on a debt,” 28 U.S.C. § 3001(a)(1), including federal agencies such as the FTC, *see e.g.*, *FTC v. Nat’l Business Consultants, Inc.*, 376 F.3d 317, 320 (5th Cir. 2004).⁴ Most important, the FDCPA does not “supersede or modify . . . the authority of a court . . . to exercise the power of contempt under any Federal law.” 28 U.S.C. § 3003(c)(8)(C) (emphasis added). Accordingly, the FDCPA explicitly neither lessens nor alters the Court’s contempt power.

powers under Rule 69(a),” but further explaining that contempt was appropriate because the judgment at issue implicated “national labor policies”) (citing *Jacksonville Paper*, 336 U.S. at 194-95); *Goddard Sys., Inc. v. Tyson*, No. 07-5372, 2009 U.S. Dist. LEXIS 57811, at *4 (E.D. Pa. July 8, 2008) (“Rule 69 provides that ‘a money judgment is enforced by a writ of execution, unless the court directs otherwise....’ While we agree that the ordinary procedure is to proceed by writ of execution, we find that contempt is appropriate in this case.”) (enforcement of consent decree requiring payment) (court’s emphasis) (citations and alterations omitted) (mag. op.); *Motorola Credit Corp. v. Nokia Corp.*, 288 F. Supp. 2d 558, 561 (S.D.N.Y. 2003) (explaining that “Rule 69(a) does, however, include two qualifications to its dependence on the vagaries of state law,” one of which is the “otherwise clause,” which includes situations in which use of “the court’s contempt powers” is appropriate).

⁴ The FDCPA also “preempt[s] State law to the extent such law is inconsistent.” 28 U.S.C. § 3003(d).

- H. Although the FDCPA presents an alternative means by which the FTC could execute against Trudeau's assets, this option is not feasible because Trudeau has carefully dispersed his assets among multiple entities, none of which he owns directly, and most of which he strategically placed overseas in asset protection havens. FOF II, III.
- I. When evaluating a coercive sanction, "the court must 'consider the character and magnitude of the harm threatened by continued contumacy, and the probable effectiveness of any suggested action in bringing about the result desired.'" *Custable*, 1999 WL 92260 at *2 (quoting *United Mine Workers*, 330 U.S. at 303-04). Here, the harm is significant: no recovery for Trudeau's 800,000 victims. More important, no sanction other than coercive incarceration will "bring[] about the result desired," which is redress for those victims.
- J. Any alternative that requires the FTC to use normal judgment collection processes will fail because Trudeau's holds his assets largely offshore in trusts or entities his wife nominally owns.
- K. Fining Trudeau will not work. He has already ignored multiple orders, including the Order To Pay. Adding to his unmet financial obligations will not bring about his compliance.
- L. Ordering Trudeau to cooperate with independent accountants also will not work. This is Trudeau's third contempt. FOF I.A.-D. Trudeau has demonstrated repeatedly that court orders without real sanctions are meaningless to him. Furthermore, unless Trudeau is incarcerated, he will move any assets an accounting reveals, and consumers will not receive compensation.
- M. The absence of feasible alternatives explains why courts have incarcerated contemnors in similar cases. *See, e.g., Affordable Media*, 179 F.3d at 1241-42 (9th Cir. 1999) (incarcerating contemnors Denyse and Michael Anderson until they repatriated offshore assets); *id.* at 1240-42 ("The asset protection' aspect of these foreign trusts arises from the ability of people . . . to frustrate and impede the United States courts by moving their assets beyond those courts' jurisdictions"; incarcerating contemnors until they repatriated offshore assets); *In re Lawrence*, 279 F.3d 1294, 1300 (11th Cir. 2002) (ordering contemnor who created an offshore trust incarcerated; contemnor had created an asset protection trust "in an obvious attempt to shelter his funds from an expected adverse arbitration award").
- N. Accordingly, Trudeau must be incarcerated to coerce him to comply with the Order To Pay.

I. ORDER

- A. Trudeau is ordered to surrender to the United States Marshals Service for the Northern District of Illinois within twenty-four hours (or the Court will issue a writ of bodily attachment and instruct the Marshals to take Trudeau into custody).

- B. Trudeau will remain in the custody of the United States Marshals or the Bureau of Prisons until one of three conditions is satisfied: (1) Trudeau fully complies with the Court's Order To Pay; (2) the Court finds that continued incarceration no longer serves a coercive purpose; or (3) Trudeau completes a full accounting and turns over all assets that he controls.
- C. The FTC is ordered to nominate an appropriately qualified independent accounting firm within two business days.
- D. Trudeau is ordered to pay to engage the firm the FTC nominates.
- E. Trudeau, as well as the companies he controls, are ordered to cooperate fully with that firm (including any requests for information it makes).

Dated: July 15, 2013

David O'Toole (dotoole@ftc.gov)
Federal Trade Commission
55 West Monroe Street, Suite 1825
Chicago, Illinois 60603-5001
Phone: (312) 960-5601
Fax: (312) 960-5600

Respectfully Submitted,

/s/ Amanda B. Kostner
Michael Mora (mmora@ftc.gov)
Jonathan Cohen (jcohen2@ftc.gov)
Amanda B. Kostner (akostner@ftc.gov)
Federal Trade Commission
600 Pennsylvania Ave., N.W. M-8102B
Washington, DC 20580
Phone: 202-326-3373; -2551
Fax: 202-326-2551

CERTIFICATE OF SERVICE

I, Amanda B. Kostner, hereby certify that on July 15, 2013, I caused to be served true copies of the foregoing by electronic means, by filing such documents through the Court's Electronic Case Filing System, which will send notification of such filing to:

Kimball Richard Anderson
kanderson@winston.com

Thomas Lee Kirsch, II
tkirsch@winston.com

Katherine E. Rohlf
kcroswell@winston.com

/s/ Amanda B. Kostner
Amanda B. Kostner (akostner@ftc.gov)
Attorney for Plaintiff
Federal Trade Commission