

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
OFFICE OF THE STATE AUDITOR
STATE OF MONTANA**

IN THE MATTER OF:)	
)	Case No.: SEC-2010-12
FORTUNE HI-TECH MARKETING, INC., a)	
Kentucky Corporation doing business in Montana;)	
PAUL C. ORBERSON, individually and in his)	CONSENT AGREEMENT AND
capacity as President of Fortune Hi-Tech Marketing,)	FINAL ORDER
Inc.; THOMAS A. MILLS, individually and in his)	
capacity as Chief Executive Officer of Fortune Hi-)	
Tech Marketing, Inc.; DIANNE GRABER,)	
individually; JOHN and JANE DOES 1-2500,)	
)	
Respondents.)	
)	
)	
)	

This Consent Agreement and Final Order (Agreement) is entered into by the Montana Securities Department (Department), acting pursuant to the authority of the Securities Act of Montana, Mont. Code Ann. § 30-10-101, *et seq.*, (Act) and Fortune Hi-Tech Marketing, Inc., Paul C. Orberson, Thomas A. Mills, and Dianne Graber (collectively “Respondents”), with a principal place of business located at 880 Corporate Drive, Suite 300, Lexington, KY 40503.

RECITALS

WHEREAS, on March 4, 2010, the Department initiated an Agency Action and issued a temporary cease and desist order to the Respondents for violations of the Act;

WHEREAS, the Department alleged that the Respondents violated Mont. Code Ann. § 30-10-325(1) by promoting, conducting, or causing to be promoted or conducted a pyramid promotional scheme;

WHEREAS, the Department and the Respondents agree that the best interests of the public would be served by entering into the Agreement.

NOW THEREFORE, in consideration of the mutual undertakings contained in this Agreement, the Department and the Respondents hereby agree to settle this matter pursuant to the following terms and conditions:

STIPULATIONS AND CONSENTS

I. Without admitting or denying any of the Department's allegations, the Respondents stipulate and consent to the following:

A. Within 10 days of the date this Agreement, Respondent Fortune Hi-Tech Marketing, Inc., (Respondent FHTM) shall provide the Department with a letter of credit sufficient to demonstrate full financial backing for purposes of providing refunds to Independent Representatives (IRs) previously identified to the Department.

B. The refunds, not to exceed a total of \$840,000, shall be distributed in accordance with the following terms and conditions:

1. By first class mail within 10 days after the date of this Agreement, the Department shall provide a notice to each individual who has paid money to become an IR in Respondent FHTM's program since January 1, 2007, until and including March 8, 2010, advising the IR that the IR may resign from the FHTM program. If the IR resigns, the IR will

be entitled to a refund of what the IR paid to join Respondent FHTM's program, minus any earnings.

2. An identified IR must execute a form acceptable to the Department expressing whether the IR will resign from the FHTM program. If the IR decides to resign from the FHTM program, the form shall acknowledge acceptance of funds, release of any and all claims against the Respondents, and shall preclude restitution by any other means including but not limited to credit card charge backs. No funds may be distributed to any IR without receipt of an executed form.

3. All claims and all documents required for distribution executed by the IRs must be made within 15 days of the notice date from the date the Department issued the notice.

4. In the event an IR does not resign from the FHTM program, the IR is not entitled to a refund.

5. Within 10 days of receipt of all original executed forms from the IRs choosing to resign from the FHTM program, the Department shall provide Respondent FHTM with the original executed forms and a Spreadsheet listing each IR who has chosen to resign and the total amount of money to be paid by Respondent FHTM to the IRs, respectively.

6. Within 10 days of receipt of the Department's Spreadsheet and original executed forms, Respondent FHTM shall issue refunds to each respective IR who chose to resign. Within 10 days after issuing the

refunds, Respondent FHTM shall provide the Department with written confirmation that refunds were issued to the IRs on the Spreadsheet.

C. Respondent FHTM shall pay a fine of \$100,000 on behalf of itself, Respondent Orberson, and Respondent Mills, to the State of Montana, which shall be paid within 10 days of the date of this Agreement.

D. Respondent Graber shall pay a fine of \$5,000 to the State of Montana, which shall be paid within 10 days of the date of this Agreement. Beginning 1 month from the date of this Agreement and for a period of 1 year, Respondent Graber shall provide her monthly downline report to the Department.

E. Respondent FHTM shall contribute \$50,000 to the Investor Protection Trust for the benefit of the State of Montana within 10 days of the date of this Agreement.

F. Each IR who does not resign from FHTM's program shall participate in a training seminar put on by Respondent FHTM. The training seminar shall provide training on the sale of products and the proper way for IRs to introduce and explain the FHTM business model. Respondent FHTM shall hold training seminars in Billings, Bozeman, Great Falls, Helena, Kalispell, and Missoula. A representative from the Department shall be allowed to attend each training seminar. If an existing or new IR does not attend one of the training seminars, the IR shall participate in an online training seminar conducted by FHTM before the IR can actively participate in FHTM's program.

G. Respondent FHTM shall require that in order for a Montana IR to be eligible for bonuses, Montana IRs must confirm that the product purchases are

not primarily for self-consumption but rather for onward sale. Respondent FHTM will spot check these sales via the use of customer confirmation. Respondent FHTM shall require its Montana IRs to maintain records of onward customer sales and submit those records on a monthly basis to FHTM for one year from the date of this Agreement. The Department has the right to request such records on an unannounced basis during the year.

H. After review and approval by the Department, Respondent FHTM will provide to every existing and new Montana IR a disclosure document. The disclosure document must contain information regarding the average amount of income achieved at each level of the FHTM program, the average amount of time it takes in the FHTM program to reach each level, the average amount of money IRs have earned while participating in FHTM's program, and other pertinent information. As part of the signup process, each current and future IR must acknowledge that the IR has reviewed the disclosure document.

I. From the date of this Agreement, Respondent FHTM shall institute as a policy and procedure that any new Montana IR is only required to pay an enrollment fee to participate in the FHTM program. For a period of one year from the date of this Agreement, that fee shall not exceed \$75. After having participated in a training seminar and acknowledging review of the disclosure document, a new IR may purchase the optional services package directly from FHTM. For a period of one year from the date of this Agreement, the cost of the package shall not exceed \$224.

J. The Respondents fully and forever release and discharge the Commissioner, the Department, and all Department employees and agents from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of this Agreement.

K. This Agreement is entered without adjudication of any issue, law or fact. It is entered into solely for the purpose of resolving the Department's investigation and allegations, and is not intended to be used for any other purpose.

L. Upon execution of this Agreement, the Respondents acknowledge and waive their right to appeal the Commissioner's Order.

II. The Department and the Respondents to this Agreement agree and acknowledge:

A. This Agreement constitutes the entire agreement between the parties and that no other promises or agreements, either express or implied, have been made by the Department or by any member, officer, agent or representative of the Department to induce Respondents to enter into this Agreement.

B. This Agreement may not be modified orally and any subsequent modifications to this Agreement must be mutually agreed upon in writing to be effective.

C. This Agreement shall be incorporated into and made a part of the attached Final Order issued by the Commissioner herein.

D. Upon execution of this Agreement, the Department will not commence an administrative action against the Respondents based upon the

activities giving rise to the Department's investigation that occurred prior to the execution of this Agreement.

E. This Agreement may be executed in counterparts and shall be considered fully-executed if all signatures are in counterparts.

F. The applicable Statute of Limitation contained within Mont. Code Ann. § 30-10-305 is tolled for 2 years from the date of execution of this Agreement with regard to the allegations set forth in the Department's Notice of Proposed Agency Action. In the event any Respondent violates the terms of this Agreement during the two-year tolling period the Department reserves the right to seek additional fines of up to \$10,000 per violation of the Agreement.

G. This Agreement shall be effective upon signing of the Final Order.

H. This Agreement and Final Order are public records under Montana law and as such may not be sealed or otherwise withheld from the public.

DATED this 22ND day of April, 2010.

SECURITIES DEPARTMENT

By: 
JESSE LASLOVICH
Chief Legal Counsel

DATED this _____ day of April, 2010

RESPONDENT FHTM

By: _____

Its: _____

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DATED this ____ day of April, 2010.

SECURITIES DEPARTMENT

By: _____
JESSE LASLOVICH
Chief Legal Counsel

DATED this 22nd day of April, 2010

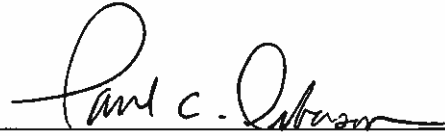
RESPONDENT FHTM

By: Thomas A. Mills

Its: CEO

DATED this 22nd day of April, 2010.

RESPONDENT PAUL C. ORBERSON



DATED this ____ day of April, 2010.

RESPONDENT THOMAS A. MILLS

DATED this ____ day of April, 2010.

RESPONDENT DIANNE GRABER

DATED this _____ day of April, 2010.

RESPONDENT PAUL C. ORBERSON

DATED this 22nd day of April, 2010.

RESPONDENT THOMAS A. MILLS



DATED this _____ day of April, 2010.

RESPONDENT DIANNE GRABER

DATED this ____ day of April, 2010.

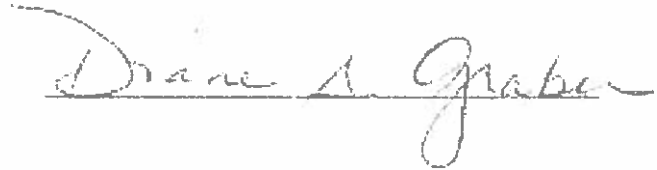
RESPONDENT PAUL C. ORBERSON

DATED this ____ day of April, 2010.

RESPONDENT THOMAS A. MILLS

DATED this 22 day of April, 2010.

RESPONDENT DIANNE GRABER

A handwritten signature in cursive script that reads "Dianne A. Graber". The signature is written in dark ink and is positioned above a horizontal line.

FINAL ORDER

Pursuant to the authority vested by Mont. Code Ann. § 2-4-603 and §§ 30-10-101, MCA, *et seq.*, and upon review of the foregoing Consent Agreement and good cause appearing therefore,

IT IS HEREBY ORDERED that the foregoing Consent Agreement between the Securities Department and the Respondents, FHTM, Paul C. Orberson, Thomas A. Mills, and Dianne Graber, is adopted as if set forth fully herein.

DATED this 22 day of April, 2010.

MONICA J. LINDEEN
Commissioner of Securities and Insurance
Montana State Auditor

By: 
LYNNE EGAN
Deputy Commissioner of Securities