

NO. \_\_\_\_\_

STATE OF TEXAS,  
Plaintiff,

v.

FORTUNE HI-TECH MARKETING,  
INC.; PAUL C. ORBERSON; JEFFERY  
M. ORBERSON; THOMAS A. MILLS;  
and DAVID S. MILLS,  
Defendants.

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IN THE DISTRICT COURT OF

HARRIS COUNTY, TEXAS

\_\_\_\_\_ JUDICIAL DISTRICT

**ASSURANCE OF VOLUNTARY COMPLIANCE**

This Assurance of Voluntary Compliance (“AVC”) is entered into this day by and between the STATE OF TEXAS, acting by and through Attorney General of Texas Greg Abbott, and FORTUNE HI-TECH MARKETING, INC. as follows:

**1.0 RECITALS**

1.1 The Consumer Protection and Public Health Division of the Office of the Attorney General (“CPD” or the “State”) is authorized to investigate and bring actions on behalf of the State of Texas and its citizens for possible violations of the Deceptive Trade Practices - Consumer Protection ACT, TEX. BUS. & COM. CODE ANN. § 17.41, *et seq.* (the “DTPA”) and other laws.

1.2 CPD initiated an investigation into the business practices of Fortune Hi-Tech Marketing, Inc. (“FHTMI”), FHT Marketing, Inc., and FHTM Foundation, Inc. (the preceding three entities are collectively referred to as “FHTM”) and the possible roles of Paul C. Orberson, Jeffery M. Orberson, Thomas A. Mills, and David S. Mills (collectively “the Individuals”). FHTM and the Individuals deny that they have done anything wrong and insist that they have not violated any law.

1.3 This AVC is a settlement of a disputed matter in order to avoid unnecessary litigation and the expenses associated therewith. Nothing contained herein shall be deemed an admission of liability or wrongdoing of any kind.

1.4 The effective date of this AVC shall be the day it is last signed below by a party hereto (the "Effective Date").

1.5 In consideration of the mutual promises and covenants herein contained, the State of Texas and FHTMI agree as follows:

## **2.0 PAYMENT TO CLAIMANTS/RESTITUTION**

2.1 FHTMI agrees to provide up to one million three hundred thousand dollars (\$1,300,000) in direct economic benefit to Claimants as defined in the AVC.

2.2 A "Claimant" is an individual who paid \$299 to become a FHTMI Independent Representative or who owned an entity through which the putative Claimant operated a FHTMI-related business which paid the \$299 while he or she was a resident of Texas at any time before the Effective Date of this AVC and, if currently a FHTMI Independent Representative, no longer wishes to be a FHTMI Independent Representative. Claimant does not include any individual who meets the above criteria, but who also meets one or more of the following criteria:

A. Earned at least as much in commissions and bonuses, combined, from FHTMI as putative Claimant paid to FHTMI as an enrollment fee

B. Renewed his or her FHTMI business at least one time.

C. Joined FHTMI as an IR more than once.

D. Reached the level of Executive Sales Manager or higher.

E. Enrolled with FHTMI by paying a \$75 refundable deposit.

F. Received a settlement payment from FHTMI related to their FHTM business through a different settlement or legal proceeding from the AVC.

2.3 Fortune Hi-Tech Marketing, Inc. ("FHTMI") shall create and maintain a claims web site (the "Claims Website") that will be active beginning forty-five (45) calendar days from the Effective Date of this AVC and continuing until one hundred and twenty (120) calendar days after the Effective Date of this AVC. Within forty-five (45) calendar days of the Effective Date of this AVC, FHTMI shall notify potential Claimants of the Claims Website. FHTMI shall notify potential Claimants by e-mail to the last known e-mail addresses of current and former FHTMI Independent Representatives. The Claims Website can be specifically devoted to claims under this AVC, and will inform a potential Claimant of his or her right to file a claim pursuant to this AVC for a payment of up to \$299.00, subtracting out any amounts earned from FHTMI and depending upon the total number of valid claims submitted. If the settlement amount is insufficient to pay all claims fully, claims will be prorated accordingly. The Claims Website will contain the claims package attached hereto as **Exhibits A and B**.

2.4 FHTMI shall accept claims submitted on the form attached as **Exhibit B** ("Claim Form") and, for each Claimant, received by FHTMI within thirty (30) days from the date an email is sent to the Claimant advising him or her to visit the Claims Website. The Claim Form provides two options for individuals making a claim. For each "Option One" Claim Form submitted, FHTMI shall accept the following documents as prima facie proof of a Claimant's claim: (a) a copy of each credit card receipt or cancelled check evidencing that the Claimant made an enrollment payment or (b) a copy of a FHTMI receipt evidencing that the Claimant made an enrollment payment.

2.5 If FHTMI determines that the documents providing proof of the Claimant's payment of his or her enrollment fee are insufficient because they fail to provide a Claimant's name, address, or other necessary information, FHTMI shall treat the claim as being made under

Option Two of **Exhibit B**, and proceed according to the procedures for Option Two claims set out below.

2.6 For each of the Claim Forms received by FHTMI where the Claimant selected Option Two, as described in **Exhibit B**, FHTMI shall make a good faith effort through a search of its records to determine if and when the Claimant paid his or her enrollment fee.

2.7 FHTMI will complete its review of all potential claims not later than 210 calendar days after the Effective Date. After completing its review of all claims and not later than 230 calendar days after the Effective Date, FHTMI shall provide to CPD a spreadsheet or similar document evidencing all of the claims received by FHTMI, including for each claim, Claimant's name and address, whether the claim is valid, the basis for a denial of claim, and the amount of payment for a valid claim. CPD shall have 20 calendar days to review the spreadsheet and raise concerns or objections. If CPD raises any concerns or objections, the time frames associated with payment described below will be tolled during the pendency of any dispute resolution between the parties.

2.8 Assuming no objection from CPD to the spreadsheet provided pursuant to Section 2.7, FHTMI will begin mailing claim payments not later than 270 calendar days following the Effective Date, and complete mailing claim payments not later than 330 calendar days following the Effective Date. Payments shall be accompanied by a Notice of Payment in the form attached as **Exhibit C**. Any payments returned to FHTMI that are undeliverable, or which are not negotiated by the recipient within ninety (90) days after having been issued, shall be deemed forfeited and the payment voided. Payments not negotiated will not be considered abandoned property. FHTMI shall maintain a log of all payments returned as undeliverable and payment instruments that are not negotiated within the 90-day period. Any amounts not collected or paid

in claims are retained by FHTMI. FHTMI shall pay all of its costs in connection with the issuing of the payments under this AVC.

2.9 If FHTMI determines in good faith that a Claimant selecting either Option One or Two does not qualify for a payment or has already received a payment from FHTMI pursuant to this AVC, FHTMI shall send the Claimant the Notice of Denial of Claim letter attached as **Exhibit D**, identifying the reason for the denial. FHTMI shall mail all claim denial letters during the period described above for mailing claim payments.

2.10 Upon reasonable request, not more than once monthly, CPD may request a status report from FHTMI regarding the administration of FHTMI's obligations under this AVC. If CPD is not reasonably satisfied with the progress and effort of FHTMI, or if CPD believes FHTMI has erred in the administration of FHTMI's obligations under this AVC, CPD will provide FHTMI written notice of CPD's concerns, and FHTMI shall have thirty (30) days to provide CPD with evidence of FHTMI's actions taken to correct the issues raised by CPD, or its good faith efforts to correct the issues raised by CPD and the reason(s) why it was unable to rectify the concerns beyond its reasonable control. CPD shall review the evidence and either issue a written response affirming its consent with FHTMI's actions, or issue a response indicating its intention to seek third party mediation. For any such mediation, the parties shall utilize a mutually agreeable mediator to mediate the dispute. If mediation attempts are unsuccessful and FHTMI is unable to correct any errors in the claims process to CPD's reasonable satisfaction, CPD will send FHTMI written notice of its intent to assume control of the claims process and FHTMI will reasonably cooperate in the transition of the claims process to CPD.

2.11 On or before the first anniversary of the Effective Date of this AVC, FHTMI shall send a report to the Texas Attorney General care of the addressee set forth in the "Notices and Contact Information" section of this AVC that shall provide:

- (a) the total number of Claim Forms received;
- (b) the total number and dollar amount of payments made;
- (c) a list of Claimants to whom a Exhibit C "Notice of Payment" was sent, including the date the Notice was sent, the address of each such Claimant, and the amount of payment paid to each such Claimant;
- (d) a list of Claimants to whom a Exhibit D "Notice of Denial of Claim" was sent, including the date the Notice was sent, the address of each such Claimant, and a short explanation of why the Claimant was not entitled to payment; and
- (e) a list of Claimants to whom an Exhibit C "Notice of Payment" was sent but the notice and payment was returned as undeliverable.

2.12 In the event FHTMI (i) materially defaults on the payment of indisputably valid claims or payment of the attorneys fees as set forth in this AVC; or (ii) files a petition for relief under the United States Bankruptcy Code (11 U.S.C. §101 et seq) before the first anniversary after the Effective Date or otherwise prior to completion of FHTMI's financial obligations described in this AVC, the parties agree that CPD shall have the right on written notice to FHTMI to assume control of the claims administration process without mediation (as described in paragraph 2.10 herein), and FHTMI will reasonably cooperate in the transition of the claims process to CPD. CPD shall also have the right to draw upon the Letter of Credit as set forth in paragraph 3.4 herein for payment of valid claims and attorneys' fees, as set forth in paragraph 3.2 and 3.3.

**3.0 ATTORNEY'S FEES AND COSTS OF INVESTIGATION**

3.1 FHTMI shall pay two hundred thousand dollars (\$200,000) to the Office of the Attorney General for its attorney's fees, expenses and investigative costs.

3.2 FHTMI shall pay one-half of the aforesaid amount, \$100,000, within three (3) calendar days from the Effective Date of this AVC by check made payable to "The State of Texas through the Texas Attorney General" bearing the reference AG #103218913. The check shall be hand delivered or sent by reputable overnight courier to the attention of Rosemarie Donnelly, Managing Attorney, Houston Regional Office, Consumer Protection and Public Health Division, Office of the Texas Attorney General, 808 Travis, Suite 1520, Houston, TX 77002.

3.3 FHTMI will pay the remaining one-half, \$100,000 within 60 calendar days of the Effective Date of the AVC, pursuant to the same instructions as in section 3.2 herein.

3.4 FHTMI agrees to obtain a letter of credit ("LOC No. 1") in favor of the State of Texas in the amount of three hundred thousand dollars (\$300,000), to be effective/in place within 30 calendar days after the Effective Date as security for FHTMI's financial obligations hereunder. FHTMI agrees to obtain a second letter of credit ("LOC No. 2") in the amount of two hundred thousand dollars (\$200,000) to be effective/in place within 90 days of the Effective Date as additional security for FHTMI's financial obligations hereunder. The LOC No. 1 and LOC No. 2 shall remain effective and in place for a minimum term of 330 days after the Effective Date, and shall be extended as necessary until completion of the claims administration process described herein. The terms of the LOC No. 1 and LOC No. 2 shall provided that the State may draw upon the LOC No. 1 and LOC No. 2 (i) upon the State's presentation of a certified copy of a signed order from the District Court of Harris County, Texas, finding that FHTMI is in material

default of its financial obligations to pay indisputably valid claims or its attorneys' fee obligations as set forth in this AVC; or (ii) upon the State's presentation of a certified copy of a petition for relief under the United States Bankruptcy Code filed by FHTMI. Upon FHTMI's payment of \$800,000 or more to Claimants, the amounts of the LOC No. 1 and LOC No. 2 may be reduced by 38.5% of any additional amounts FHTMI pays to Claimants thereafter pursuant to this AVC. In the event FHTMI fails to establish and fund the LOC No. 1 and LOC No. 2 within 90 calendar days after the Effective Date according to the terms as required by this paragraph, FHTMI shall be in material default of this AVC.

#### **4.0 CHANGES TO BUSINESS PRACTICES**

4.1 It is recognized that FHTMI has had significant improvements in its business practices over the past years. Without admission as to whether FHTMI has ever engaged in any of the following practices, and to ensure the continuation of these business practices, for a period of three (3) years from the Effective Date of this Agreement, FHTMI shall NOT, in Texas:

4.2 Adopt deceptive trade practices concerning the profitability of joining FHTMI;

4.3 Adopt deceptive trade practices concerning representations about the affiliation of FHTMI with the companies who supply FHTMI's products or services;

4.4 Adopt deceptive trade practices concerning the likelihood that FHTMI Independent Representatives will be able to form a productive and profitable "downline" sales organization;

4.5 Make oral representations that contradict terms or language contained in FHTMI's written contracts with Texas FHTMI Independent Representatives;

4.6 Adopt deceptive trade practices concerning representations as to the source, sponsorship, approval, or certification of products or services sold through FHTMI;



4.7 Adopt deceptive trade practices concerning representations as to the affiliation, connection, or association with, or certification by another of products or services sold through FHTMI;

4.8 Adopt deceptive trade practices concerning representations that products and services sold through FHTMI have characteristics, uses and benefits which they do not have;

4.9 Adopt deceptive trade practices concerning representations that products and services sold through FHTMI are of a particular standard, quality or grade if they are of another;

4.10 Adopt deceptive trade practices concerning advertising products or services sold through FHTMI with the intent not to sell them as advertised;

4.11 Adopt deceptive trade practices concerning representations that an agreement with FHTMI confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law; and

4.12 Fail to disclose information concerning products or services sold through FHTMI which was known at the time of the transaction if such failure to disclose such information was intended to induce a Texas consumer into a transaction into which the consumer would not have entered had the information been disclosed;

4.13 Within forty-five (45) days of the Effective Date of this AVC, FHTMI shall remove all references to FHTM "University" from its marketing materials and website.

## **5.0 RELEASE**

5.1 In consideration for this AVC, the State of Texas hereby releases Fortune Hi-Tech Marketing, Inc. ("FHTMI"), F.H.T. Marketing, Inc., and FHTM Foundation, Inc. (the preceding three entities are collectively referred to as "FHTM") Paul C. Orberon, Jeffery M. Orberon, Thomas A. Mills, and David S. Mills (collectively "the Individuals") and their respective partners, affiliates, representatives, managers, agents, directors, officers, and/or employees from

any and all claims related to or arising out of the FHTM business in Texas from the beginning of time until the Effective Date of this AVC. Each payment issued to a Claimant pursuant to the terms of this AVC may also include a release as follows: "In consideration of the issuance of this payment, I hereby agree to defend, indemnify, and release Fortune Hi-Tech Marketing, Inc., F.H.T. Marketing, Inc., FHTM Foundation, Inc., Paul C. Orberon, Jeffery M. Orberon, Thomas A. Mills, and David S. Mills and their respective partners, affiliates, representatives, managers, agents, directors, officers, and/or employees from any and all claims related to or arising out the FHTM business in Texas from the beginning of time until the Effective Date of the Assurance of Voluntary Compliance related to this payment."

**6.0 NOTICES AND CONTACT INFORMATION**

6.1 All notices required under this AVC shall be sent as follows:

To FHTM and/or the Individuals:

Keith U. Kuder  
General Counsel  
Fortune Hi-Tech Marketing, Inc.  
880 Corporate Drive, Suite 300  
Lexington, KY 40503

With copy to:

Mr. Edward D. ("Ed") Burbach  
Gardere Wynne Sewell, LLP  
600 Congress Avenue, Suite 3000  
Austin, Texas 78701-2978

To the State of Texas or the Attorney General:

Rosemarie Donnelly  
Managing Attorney  
Houston Regional Office  
Consumer Protection & Public Health Division  
Office of the Texas Attorney General  
808 Travis, Suite 1520

Houston, TX 77002

**7.0 MISCELLANEOUS PROVISIONS**

7.1 If any federal or Texas law, rule or regulation creates a new statutory or regulatory provision that materially conflicts with the terms of this AVC, then this AVC shall be automatically modified to reflect and incorporate that law, rule, or regulation prospectively from the date the new provision becomes effective. For the purposes of this AVC, a material conflict exists if conduct prohibited by this AVC is required or permitted by such Texas or federal law or if conduct required by this AVC is prohibited or abrogated by such Texas or federal law. This agreement does not preclude FHTM or any of the Individuals from submitting requests to the State of Texas to allow a modification of this AVC to conform to law.

7.2 FHTM and the Individuals maintain that there may come a time that to remain competitive in their industry the aforesaid provisions of Section 4.0 should be changed. Nothing in this AVC shall be construed to prevent FHTM and/or the Individuals from seeking modification of Section 4.0 or other provisions of this AVC.

7.3 The parties hereto agree that this is a compromise of a disputed claim and that this AVC is entered into without admitting any liability, which liability is expressly denied, and without agreement by any party to any of the allegations or defenses made by another party. Nothing contained herein shall be deemed an admission of liability or wrongdoing of any kind.

7.4 The parties represent and warrant, each to the other, that each has the authority to enter into and make this AVC, and to bind themselves and all affected consumers subject to protection by the State to this AVC. The parties agree that nothing in this AVC shall create any private rights, causes of action, or remedies of any other individual or entity against any party hereto. Further, the consideration contained herein including, but not limited to the payments to

the Claimants, shall be deemed to make the Claimants and/or Texas consumers whole from any and all claims for damages or other relief arising out of any of the allegations that have been or could have been asserted by the State of Texas and/or by the State of Texas on behalf of any Claimant and/or Texas consumers against Fortune Hi-Tech Marketing, Inc., F.H.T. Marketing, Inc., FHTM Foundation, Inc., Paul C. Orberson, Jeffery M. Orberson, Thomas A. Mills, and/or David S. Mills through the Effective Date of this AVC.

7.5 Any and all taxable costs of court are to be paid by the party incurring same.

7.6 No waiver, termination, modification, or amendment of the terms of this AVC shall be binding unless agreed to by the parties in writing or made by order of the Court.

7.7 This AVC may be executed in any number of counterparts and each of which when so executed shall be deemed an original and all of which taken together shall constitute one and the same AVC.

7.8 True and correct copies of signatures by any of the parties hereto are as effective as original signatures.

EXECUTED this 21<sup>st</sup> day of July 2011.

GREG ABBOTT  
Attorney General of Texas

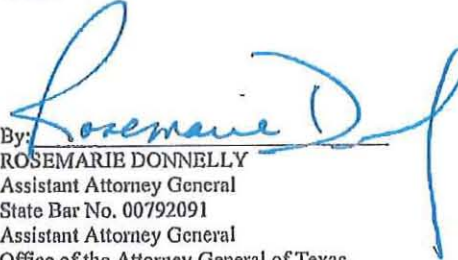
DANIEL HODGE  
First Assistant Attorney General

DAVID MORALES  
Deputy First Assistant Attorney General

PAUL CARMONA  
Chief, Consumer Protection & Public Health  
Division

MARY HENDERSON  
Deputy Chief, Consumer Protection & Public

Health Division



By:

ROSEMARIE DONNELLY  
Assistant Attorney General  
State Bar No. 00792091  
Assistant Attorney General  
Office of the Attorney General of Texas  
Consumer Protection & Public Health Division  
808 Travis, Suite 3000  
Houston, Texas 77002  
(713) 223-5886  
(713) 223-5821 (Fax)

ATTORNEYS FOR THE STATE OF TEXAS

EXECUTED this 21<sup>st</sup> day of July, 2011.

By: 

Edward D. ("Ed") Burbach  
State Bar No. 03355250  
GARDERE WYNNE SEWELL LLP  
One American Center  
600 Congress, Suite 3000  
Austin, Texas 78701-2978  
(512) 542-7070  
(512) 542-7270 (Fax)  
ATTORNEY-IN-CHARGE FOR  
FHTM & THE INDIVIDUALS

EXECUTED this 21<sup>st</sup> day of JULY, 2011.

Fortune Hi-Tech Marketing, Inc.

By: Tom Mills

Title: CEO

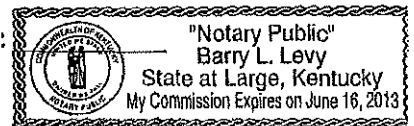
THE STATE OF KENTUCKY    §  
  §  
COUNTY OF FAYETTE       §

On this 21 day of JULY 2011, before me, the undersigned authority, personally appeared TOM MILLS, who is personally known to me and acknowledged himself/herself to be an agent for Fortune Hi-Tech Marketing, Inc. and he/she, as such an agent, being authorized to do so, executed the foregoing instrument for the purpose and consideration therein contained by signing for Fortune Hi-Tech Marketing, Inc.

In witness whereof, I hereunto set my hand and official seal.

/s/ Barry L. Levy  
Notary Public, State of Kentucky

My Commission Expires:



**EXHIBIT A**

**NOTICE OF SETTLEMENT AND CLAIM PROCEDURES**

Fortune Hi-Tech Marketing, Inc. ("FHTMI") and the State of Texas through Texas Attorney General Greg Abbott have recently reached an agreement entitled Assurance of Voluntary Compliance ("AVC") regarding allegations arising from the State's investigation of Fortune Hi-Tech Marketing, Inc. ("FHTMI"), F.H.T. Marketing, Inc., and FHTM Foundation, Inc. (the preceding three entities are collectively referred to as "FHTM") Paul C. Orberon, Jeffery M. Orberon, Thomas A. Mills, and David S. Mills (collectively "the Individuals"). FHTM and the Individuals vehemently deny any and all allegations. However, in an effort to avoid the time and expense of litigation, FHTMI and the Texas Attorney General have agreed on a procedure for certain Texans to receive settlement for damages or other relief, including, but not limited to, actual damages, the restoration of money or property, real or personal, which have been allegedly acquired by means of any unlawful act or practice by FHTM and/or the Individuals accruing before \_\_\_\_\_, 2011 (the Effective Date of the AVC). You may be eligible if you have been a Texas-resident FHTMI Independent Representative ("IR") before \_\_\_\_\_, 2011 (the Effective Date of the AVC). You must be willing to accept the payment in full settlement for any and all claims that you may have, known or unknown, against FHTM and/or the Individuals accruing before \_\_\_\_\_, 2011 (the Effective Date of the AVC). You must no longer wish to be a FHTMI Independent Representative. You are not eligible if: (1) you earned more in commissions and bonuses from FHTMI than you paid as an enrollment fee; (2) you renewed your IR position at any time; (3) you enrolled as an FHTM IR more than once; (4) you obtained the level of Executive Sales Manager or higher; (4) you joined FHTMI by providing a \$75.00 deposit; or (5) you previously have obtained a payment from FHTMI as settlement relating to your IR position.

If you believe that you are eligible, you must print, fill out, sign, and send the Claim Form and required attachments to FHTMI care of the address on the Claim Form within thirty (30) calendar days of the date you print the Claim Form off of the FHTMI web site. You must attach to your claim form a) a copy of the credit card receipt or canceled check evidencing your payment of your FHTMI Independent Representative enrollment fee or (b) a copy of a FHTMI receipt evidencing your payment of your FHTMI Independent Representative enrollment fee. If you do not have these documents, please see Option 2 on the Claim Form.

If you have any questions concerning the settlement and the claim procedure described above, please contact FHTMI at 880 Corporate Drive, Suite 300, Lexington, Kentucky 40503.



**EXHIBIT B**

**CLAIM FORM**

*Read the following options, and check the one that applies to your circumstances.*

**OPTION ONE**

\_\_\_\_\_ I attach to my claim form a) a copy of a credit card receipt or canceled check evidencing my payment of my FHTMI Independent Representative enrollment fee or (b) a copy of a FHTMI receipt evidencing my payment of my FHTMI Independent Representative enrollment fee. I agree that that by submitting this form I am resigning as an Independent Representative of FHTMI and that if FHTMI determines that the documentation I have provided is insufficient, I request that FHTMI perform the research described in Option Two.

**OPTION TWO**

\_\_\_\_\_ I believe that I was an Independent Representative of FHTMI but do not have any documents in my possession evidencing my payment of my FHTMI Independent Representative enrollment fee. I am thus requesting that FHTMI make a good faith effort through a search of its records to identify my payment of my FHTMI Independent Representative enrollment fee. I agree that that by submitting this form I am resigning as an Independent Representative of FHTMI.

**PLEASE PRINT LEGIBLY**

\_\_\_\_\_  
Claimant's Name:

\_\_\_\_\_  
\_\_\_\_\_  
Claimant's Current Address:

\_\_\_\_\_  
Date of payment of my FHTMI Independent Representative fee

\_\_\_\_\_  
\_\_\_\_\_  
Claimant's Address at Time of payment of my FHTMI Independent Representative fee (if different from address above):

\_\_\_\_\_  
\$ Amount of payment of my FHTMI Independent Representative fee

\_\_\_\_\_  
Claimant's Telephone Number:

\_\_\_\_\_  
Claimant's e-Mail Address:

I accept all terms of the Exhibit A Notice of Settlement and Claim Procedures.

\_\_\_\_\_  
Claimant's Signature:

\_\_\_\_\_  
Signed this DATE:

If you need more space, please attach a separate sheet of paper.

**EXHIBIT C**

**Issuance Date:** \_\_\_\_\_

**NOTICE OF PAYMENT**

Fortune Hi-Tech Marketing, Inc. ("FHTMI") and the State of Texas through Texas Attorney General Greg Abbott have recently reached an agreement entitled Assurance of Voluntary Compliance ("AVC") regarding allegations arising from the State's investigation of Fortune Hi-Tech Marketing, Inc. ("FHTMI"), F.H.T. Marketing, Inc., and FHTM Foundation, Inc. (the preceding three entities are collectively referred to as "FHTM") Paul C. Orberon, Jeffery M. Orberon, Thomas A. Mills, and David S. Mills (collectively "the Individuals"). FHTM and the Individuals vehemently deny any and all allegations. However, in an effort to avoid the time and expense of litigation, FHTMI and the Texas Attorney General have agreed on a procedure for certain Texans to receive full settlement for damages or other relief, including, but not limited to, actual damages, the restoration of money or property, real or personal, which have been allegedly acquired by means of any unlawful act or practice by FHTM and/or the Individuals accruing before \_\_\_\_\_, 2011 (the Effective Date of the AVC). You may be eligible if you have been a Texas-resident FHTMI Independent Representative before \_\_\_\_\_, 2011 (the Effective Date of the AVC). You must be willing to accept the payment in full settlement for any and all claims that you may have, known or unknown, against FHTM and/or the Individuals accruing before \_\_\_\_\_, 2011 (the Effective Date of the AVC). You must no longer wish to be a FHTMI Independent Representative. You are not eligible if: (1) you earned more in commissions and bonuses from FHTMI than you paid as an enrollment fee; (2) you renewed your IR position at any time; (3) you enrolled as an FHTM IR more than once; (4) you obtained the level of Executive Sales Manager or higher; (4) you joined FHTMI by providing a \$75.00 deposit; or (5) you previously have obtained a payment from FHTMI as settlement relating to your IR position.

You recently filed a claim in connection with the agreement between FHTMI and Texas Attorney General Greg Abbott. Enclosed please find a check in full and final settlement from FHTMI.

**NOTICE: BY ACCEPTING THIS PAYMENT YOU ARE CONFIRMING YOUR RESIGNATION AS A FHTMI INDEPENDENT REPRESENTATIVE AND ARE ACCEPTING THE PAYMENT AS FULL AND FINAL SETTLEMENT OF ANY AND ALL CLAIMS THAT YOU HAVE OR MAY HAVE (WHETHER KNOWN OR NOT) AGAINST FORTUNE HI-TECH MARKETING, INC., FHT MARKETING, INC., FHTM FOUNDATION, INC., PAUL C. ORBERSON, JEFFERY M. ORBERSON, THOMAS A. MILLS, DAVID S. MILLS, AND THEIR RESPECTIVE PARTNERS, AFFILIATES, REPRESENTATIVES, MANAGERS, AGENTS DIRECTORS, OFFICERS AND/OR EMPLOYEES FROM THE BEGINNING OF TIME UNTIL \_\_\_\_\_, 2011 (THE EFFECTIVE DATE OF THE ASSURANCE OF VOLUNTARY COMPLIANCE RELATED TO THIS PAYMENT).**

If you have any questions about this payment, please contact FHTMI at 880 Corporate Drive, Suite 300, Lexington, Kentucky 40503.

**EXHIBIT D**

**NOTICE OF DENIAL OF CLAIM**

Date: \_\_\_\_\_

Fortune Hi-Tech Marketing, Inc. ("FHTMI") and the State of Texas through Texas Attorney General Greg Abbott have recently reached an agreement entitled Assurance of Voluntary Compliance ("AVC") regarding allegations arising from the State's investigation of Fortune Hi-Tech Marketing, Inc. ("FHTMP"), F.H.T. Marketing, Inc., and FHTM Foundation, Inc. (the preceding three entities are collectively referred to as "FHTM") Paul C. Orberon, Jeffery M. Orberon, Thomas A. Mills, and David S. Mills (collectively "the Individuals"). FHTM and the Individuals vehemently deny any and all allegations. However, in an effort to avoid the time and expense of litigation, FHTMI and the Texas Attorney General have agreed on a procedure for certain Texans to receive full settlement for damages or other relief, including, but not limited to, actual damages, the restoration of money or property, real or personal, which have been allegedly acquired by means of any unlawful act or practice by FHTM and/or the Individuals accruing before \_\_\_\_\_, 2011 (the Effective Date of the AVC). You may be eligible if you have been a Texas-resident FHTMI Independent Representative before \_\_\_\_\_, 2011 (the Effective Date of the AVC). You must be willing to accept the payment in full settlement for any and all claims that you may have, known or unknown, against FHTM and/or the Individuals accruing before \_\_\_\_\_, 2011 (the Effective Date of the AVC). You must no longer wish to be a FHTMI Independent Representative. You are not eligible if: (1) you earned more in commissions and bonuses from FHTMI than you paid as an enrollment fee; (2) you renewed your IR position at any time; (3) you enrolled as an FHTM IR more than once; (4) you obtained the level of Executive Sales Manager or higher; (4) you joined FHTMI by providing a \$75.00 deposit; or (5) you previously have obtained a payment from FHTMI as settlement relating to your IR position.

You recently filed a claim in connection with the agreement between FHTMI and Texas Attorney General Greg Abbott. This will serve as confirmation that you will not receive a payment because of one of the reasons listed below:

- \_\_\_\_\_ 1. You selected Claim Form Option One but failed to timely submit:
- (a) a copy of each credit card receipt evidencing payment of my most recent FHTMI Independent Representative renewal fee; or
  - (b) a copy of a FHTMI receipt evidencing payment of my most recent FHTMI Independent Representative renewal fee; and
  - (c) after a good faith effort through a search of its records, FHTMI has been unable to determine that you paid a FHTMI Independent Representative enrollment fee.
- \_\_\_\_\_ 2. You selected Claim Form Option Two but after a good faith effort through a search of its records, FHTMI has been unable to determine that you paid a FHTMI Independent Representative enrollment fee.
- \_\_\_\_\_ 3. Other: \_\_\_\_\_

If you have any questions about the claim, please contact FHTMI at 880 Corporate Drive, Suite 300, Lexington, Kentucky 40503.