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ORIGINAL FILED
MAY 28 2009
LOS ANGELES
SUPERIOR COURT

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

PAUL THOMAS CHESTER, Plaintiff, vs. iFREEDOM COMMUNICATIONS INCORPORATED; iFREEDOM COMMUNICATIONS INTERNATIONAL LIMITED; iFREEDOM COMMUNICATIONS INTERNATIONAL HOLDINGS, LIMITED; TIMOTHY RINGGENBERG; FUSION TELECOMMUNICATIONS INTERNATIONAL, INC.; FUSION VOIP ACQUISITION CORP.; and DOES 1 through 100, Inclusive, Defendants	Case Number BC353567 ~~[PROPOSED]~~ **JUDGMENT CONFIRMING FINAL ARBITRATION AWARD** DEPARTMENT: 74

Plaintiff's Petition to Confirm Contractual Arbitration Award came on regularly for hearing before this Court on May 19, 2009, and was granted. An Order on Petition to Confirm

Contractual Arbitration Award was issued by this Court on that date. Good cause appearing,

IT IS HEREBY ORDERED THAT JUDGMENT SHALL BE ENTERED, jointly and severally, against

Timothy "Tim" Ringgenberg,

iFreedom Communications Incorporated, and

iFreedom Communications International Holdings, Limited,

in favor of Paul Thomas Chester,

in all amounts and on all terms specified below:

1. Damages and other sums as specified in the Final Arbitration Award in the amount of **$3,903,820,195.04** (three billion, nine hundred three million, eight hundred twenty thousand, one hundred ninety-five U.S. Dollars and four cents); plus

2. Daily post-hearing, pre-award interest as provided in the Final Arbitration Award at the rate of $267,239.88 per day for the 192 days from July 1, 2008, through and including the January 8, 2009, date of issuance of the Final Arbitration Award, for a total of **$51,310,056.96** (fifty-one million, three hundred ten thousand, fifty-six U.S. Dollars and ninety-six cents); plus

3. Daily post-award interest as provided in the Final Arbitration Award on all sums set forth above (which total $3,955,130,252.00) from January 8, 2009, the date of the Final Arbitration Award, through and including the date this Judgment is entered. At the rate of ten percent per annum specified in the Final Arbitration Award, that post-award daily interest has accrued in the amount of **$1,083,597.33** per day (one million, eighty-three thousand, five hundred ninety-seven U.S. Dollars and 33 cents per day), for a total of **$151,703,626.20** (one hundred fifty-one million, seven hundred three thousand, six hundred twenty-six U.S. Dollars and twenty cents) for the 140 days through May 28,

2009, and, if this Judgment is not entered on May 28, 2009, continues to accrue at the daily rate of **$1,083,597.33** per day for each day, if any, from and including May 29, 2009, through and including the date on which this Judgment is entered by the Court.

4. The total of the sums set forth in paragraphs 1 through 3 above, through May 28, 2009, is **$4,106,833,878.20** (four billion, one hundred six million, eight hundred thirty-three thousand, eight hundred seventy-eight U.S. Dollars and twenty cents). Interest shall accrue on this Judgment at the legal rate from the date it is entered until it is satisfied. At the current legal rate of ten percent per annum, applied to the May 28, 2009, sum of $4,106,833,878.20, daily interest shall accrue in the amount of **$1,125,159.97 per day** (one million, one hundred twenty-five thousand, one hundred fifty-nine U.S. Dollars and ninety-seven cents per day). That post-judgment daily interest shall be adjusted upward accordingly if this Judgment is signed after May 28, 2009.

5. The Final Arbitration Award attached hereto as Attachment "A" is incorporated herein in its entirety and made a part of this Judgment.

IT IS SO ORDERED.

DATED: MAY 28 2009

By: TERESA SANCHEZ-GORDON
The Honorable Teresa Sanchez-Gordon
Los Angeles County Superior Court Judge

ATTACHMENT "A"

ATTACHMENT "A"

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JAMS

PAUL THOMAS CHESTER,

Plaintiff,

vs.

iFREEDOM COMMUNICATIONS INCORPORATED; iFREEDOM COMMUNICATIONS INTERNATIONAL LIMITED; iFREEDOM COMMUNICATIONS INTERNATIONAL HOLDINGS, LIMITED; TIMOTHY RINGGENBERG; FUSION TELECOMMUNICATIONS INTERNATIONAL, INC.; FUSION VOIP ACQUISITION CORP.; and DOES 1 through 100, Inclusive,

Defendants

JAMS Case Number 1220036748

FINAL ARBITRATION AWARD

Arbitrator: Hon. William F. McDonald (Ret.)

Prove-Up Hearing Date: June 19, 2008

Prove-Up Hearing Time: 10:00 a.m.

This Final Arbitration Award arises from a prove-up hearing (the "hearing") held at the offices of JAMS, in Los Angeles, California, on June 19, 2008, at 10:00 a.m.

Plaintiff Paul Thomas Chester appeared at the hearing, represented by his legal counsel, Scot Bernstein, of the Law Offices of Scot Bernstein, Mather Field, California, and Steve A. Buchwalter, of the Law Offices of Steve A. Buchwalter, Encino, California.

Defendants Timothy "Tim" Ringgenberg ("Ringgenberg"), iFreedom Communications Incorporated ("IFI") and iFreedom Communications International Holdings, Limited ("Holdings"), did not appear. Ringgenberg, IFI and Holdings, all of which may be referred to collectively as "Defendants," have been represented in this arbitration by Ringgenberg continuously beginning in December 2007, when Ringgenberg substituted in as the representative of all Defendants and Defendants' former counsel, the Quintana Law Group, substituted out. JAMS provided all parties with notice of the date, time and location of the hearing. That notice was sent to the Plaintiff's representatives, Scot Bernstein and Steve A. Buchwalter, by fax and U.S. mail. The same notice was sent by fax and certified mail to Ringgenberg at the fax number and the three addresses JAMS had on file for him. The Defendants received that notice, as evidenced by Ringgenberg's letter dated June 18, 2008, which was faxed to and received by JAMS on June 19, 2008. Ringgenberg's letter announced Ringgenberg's and the Defendants' intention not to appear at the hearing. Thus, the hearing went forward in the Defendants' absence.

The complaint in this matter is incorporated by reference. Plaintiff testified that all material allegations of the complaint were true and correct. Based upon the

documents presented at the hearing, the sworn testimony of Plaintiff, and the admissions of Defendants, including Defendants' deemed admissions, the Arbitrator finds and awards as follows.

Liability

The Arbitrator finds in favor of Plaintiff on all theories of liability, including the following:

Breach of contract

Breach of the implied covenant of good faith and fair dealing

Conversion

Failure to pay wages pursuant to California Labor Code § 201

Failure to pay wages upon discharge – waiting time penalties pursuant to Labor Code § 203 and other penalties

Failure to compensate for all hours worked pursuant to Labor Code §§ 510, 1194 and 1194.2 and IWC Wage Order #4

Failure to pay overtime and minimum wage compensation under federal law

Violation of California Business and Professions Code § 17200

Additional Findings

1. The Arbitrator specifically considered the issue of jurisdiction over Defendants iFreedom Communications Incorporated, iFreedom Communications International Holdings, Limited, and Timothy Ringgenberg, and determined that he has jurisdiction over those Defendants.
2. The Arbitrator determined that Defendants iFreedom Communications Incorporated, iFreedom Communications International Holdings, Limited, and Timothy Ringgenberg moved to compel this arbitration, negotiated and entered into a

stipulation to arbitrate, participated in the arbitrator selection process, filed answers, participated in motion practice, and otherwise participated in this arbitration proceeding.

3. The Arbitrator determined that Defendants iFreedom Communications Incorporated, iFreedom Communications International Holdings, Limited, and Timothy Ringgenberg received notice of this hearing, participated in a conference call regarding this hearing, and did not request that it be postponed.

4. The Arbitrator determined that Defendants iFreedom Communications Incorporated, iFreedom Communications International Holdings, Limited, and Timothy Ringgenberg, through their representative, Timothy Ringgenberg, were invited to provide a certified shorthand reporter to record the proceedings at the June 19, 2008, prove-up hearing, and that they expressly declined to do so.

5. The Arbitrator has determined that Defendants iFreedom Communications Incorporated, iFreedom Communications International Holdings, Limited, and Timothy Ringgenberg, and each of them, obtained services and property from Plaintiff by means of false pretenses, false representations, and actual fraud regarding matters other than those Defendants' and those Defendants' insiders' own financial condition. The amount of money that those Defendants obtained from Plaintiff in that manner is equal to the full amount of this award.

6. The Arbitrator has determined that Plaintiff has shown by clear and convincing evidence that Defendants iFreedom Communications Incorporated, iFreedom Communications International Holdings, Limited, and Timothy Ringgenberg, and each of them, engaged in a pattern of despicable conduct that constitutes oppression,

fraud and malice within the meaning of section 3294 of the California Civil Code, so as to justify an award of exemplary and punitive damages in the amounts set forth below.

7. The Arbitrator finds that Plaintiff is entitled to an award of attorneys' fees and costs under applicable California and federal law and hereby awards Plaintiff attorneys' fees and costs in the amounts set forth below.

8. The Arbitrator has determined that an earlier award of sanctions in the amount of **$1,210.00** against Defendants iFreedom Communications Incorporated, iFreedom Communications International Holdings, Limited, and Timothy Ringgenberg shall be added into and included in this award.

9. Pursuant to the Stipulation for Arbitration, all arbitration fees and other fees and costs of JAMS and the Arbitrator are assessed jointly and severally against Defendants iFreedom Communications Incorporated, iFreedom Communications International Holdings, Limited, and Timothy Ringgenberg. Those Defendants shall reimburse Plaintiff for fees of JAMS and the Arbitrator in the amount of **$ 5,532.45**, which sum shall be added into and included in this award.

10. All damages and other amounts awarded herein (including, without limitation, compensatory damages, interest, penalties, exemplary and punitive damages, attorneys' fees and costs) are awarded jointly and severally against Defendants iFreedom Communications Incorporated, iFreedom Communications International Holdings, Limited, and Timothy Ringgenberg.

11. The Arbitrator has determined that all amounts that Defendants should have paid to Plaintiff but did not, i.e., all compensatory damages, are awarded to Plaintiff for and

as a result of fraud and defalcation by Defendants iFreedom Communications Incorporated, iFreedom Communications International Holdings, Limited, and Timothy Ringgenberg, and each of them, while those Defendants, and each of them, were acting in a fiduciary capacity with respect to Plaintiff.

Damages and Other Sums Awarded

The Arbitrator awards the following damages and other sums to Plaintiff:

A. Unpaid Salary

Defendants are liable to Plaintiff for unpaid salary in the sum of **$323,500.00**, computed as follows:

Calculation of unpaid salary:

$ 7,000/month underpayment for June 2005 – August 15, 2005:	$ 17,500.00
$12,000/month underpayment for August 16, 2005 – September 30, 2005:	$ 18,000.00
$12,000/month for October 2005 – September 2007 (term w/o cause):	$288,000.00
Total Unpaid Salary	**$323,500.00**

A.1. Interest on Unpaid Salary

Defendants are liable to Plaintiff for interest on the unpaid salary up through and including June 30, 2008, in the sum of **$61,335.60**, together with daily interest after that date in the sum of **$88.63/day**, computed as follows:

a. **Interest through June 30, 2008.** The average date of underpayment/nonpayment of salary is halfway between June 15, 2005 and September 30, 2007, or approximately August 8, 2006. The time elapsed from August 8, 2006 to June 30, 2008, is approximately 1 year, 10-3/4 months or approximately 1.896 years.

Interest = $323,500.00 x 10%/year x 1.896 years = $ 61,335.60

b. Daily Interest after June 30, 2008.

Post-063008 Daily Interest = $323,500.00 x 10%/year x 1 year/365 days = $ 88.63/day

B. Commission Structure

The employment contract provides that Defendants are to pay Plaintiff a commission structure of five percent of gross sales on an ongoing basis, and that Plaintiff's right to those payments survives any termination without cause initiated by the Defendants. The Arbitrator finds that Defendants have refused to pay Plaintiff that component of his compensation; that they have breached the employment contract in that respect; and that Plaintiff is entitled to immediate payment of the portion of that ongoing obligation that already is owed. The Arbitrator further finds that Plaintiff was not terminated for cause and therefore is entitled to payment of that commission structure on a going-forward basis.

Paragraph 7.1 of the employment contract provides that, in the event of a termination without cause by the employer, Plaintiff is entitled to receive the override commission on an ongoing and permanent basis. Thus, Plaintiff requested a sum calculated as the discounted present value of that stream of payments in perpetuity. Plaintiff's request is in that respect denied. Instead, the Arbitrator awards all sums owed through the date of Plaintiff's termination together with the present value of 84 months of payments following termination.

Discussion and Calculations of Damages

Determination of the amount owed for each month requires a determination and projection of gross sales. Defendants made this determination difficult by concealing their gross sales data during discovery, even after having been ordered to produce that

data. Thus, Plaintiff is entitled to an adverse inference, and we must use those few data points that are available.

One such data point is provided by Defendants' July 24, 2005, letter addressed to "Dear Fellow Shareholders" and signed by Ringgenberg. That letter states as follows:

> On a positive note, I am pleased to report that our company had a benchmark month in June with revenue reaching US$535,000. This is a record month for us and the trends continue to move in the right direction.

If Defendants had credible accounting books and records to support a contention that the June 2005 gross revenue figure was different than they represented to their shareholders, they should have produced them. They did not. Thus, the $535,000 figure will form the basis for damage calculations with regard to Plaintiff's override commissions.

Additional data points that are available include Defendants' admissions that growth rates of 20% per month were achieved during the third through eighth months following the beginning of Plaintiff's employment, and that growth rates of 10% per month were achieved during the ninth through fourteenth months following the beginning of Plaintiff's employment. Thus, we use those growth rates to calculate the override commissions owed, as those are the only figures available. Further, giving the Defendants the benefit of the doubt, we utilize the lower of the two growth rates, 10% per month, as the rate applicable to the period from the fifteenth month following the beginning of Plaintiff's employment through the eighty-fourth month following his termination.

Utilizing the data points above, an Excel spreadsheet was utilized to perform a calculation of (1) the commissions owed and to be owed, (2) simple interest at the rate of

ten percent per annum on commissions owed for June 2004 through June 2008, and (3) the present value of commissions to be owed for the period from July 2008 through September 2012 (the eighty-fourth month), discounted at the rate of five percent per annum. Based upon those calculations, the following amounts are awarded to Plaintiff, jointly and severally against all Defendants:

Commissions Owed, June 2004 – June 2008	$	8,986,346.83
Interest on Commissions Owed, June 2004 – June 2008	$	708,361.99
Present Value of Commissions to be Owed, July 2008 – September 2012	$	964,342,168.59

B.1. Interest on Unpaid Commission Structure

a. Interest. Interest through June 30, 2008, is as set forth above.

b. Daily Interest = Total of commissions owed and present value of commissions to be owed x 10%/year x 1 year/365 days =
Post-063008 Daily Interest = ($ 8,986,346.83 + $ 964,342,168.59) x 10%/year x 1 year/365 days = **$ 266,665.35/day**

C. Shares of Stock

The employment contract provides that, upon execution of that contract, Defendants were to provide 1.1 million shares of common stock of iFreedom Communications International Limited ("International") to Plaintiff. Defendants breached the employment contract by failing to provide those shares of International. More recently, Defendants provided Plaintiff with 1.1 million shares of Holdings, a Hong Kong corporation that Plaintiff is informed and believes and on that ground alleges to be a successor in interest to International. Despite Plaintiff's requests, Defendants gave Plaintiff no way to determine the relative valuations of the shares he actually received

compared with the shares the employment contract entitled him to receive; nor did Defendants explain the reason for the creation of Holdings as a successor entity.

The employment contract provides that Defendants were to issue an additional 600,000 shares of common stock of International to Plaintiff in two stages provided certain conditions were met. As a first stage, Defendants were required to provide Plaintiff with an additional 300,000 shares of common stock of International upon achievement of a six-month period with consistent sales growth averaging 20% per month. That six-month period was to begin 60 days after the date of the employment contract.

The Arbitrator finds that the required growth objective was achieved; that Plaintiff requested that the additional shares be provided in accordance with the employment contract; and that Defendants further breached that contract by failing and refusing to provide the required 300,000 shares to Plaintiff.

As a second stage, the employment contract provides that Defendants were to provide Plaintiff with a further 300,000 shares of common stock of International upon achievement of a follow-on six-month period with consistent sales growth averaging 10% per month. The Arbitrator finds that this further required growth objective was achieved as well; that Plaintiff requested that the additional shares be provided in accordance with the employment contract; and that Defendants further breached the employment contract by failing and refusing to provide the required additional 300,000 shares to Plaintiff, despite Plaintiff's requests for those shares.

Discussion and Calculations of Damages

Defendants never provided Plaintiff with the 1,700,000 shares of International to which he was entitled. But they are deemed to have admitted that those shares were worth no less than $1.00 per share. See Plaintiff's Requests for Admissions, RFA number 16; and the Order on Plaintiff's Motion to Vacate Plaintiff's Discovery Deadlines, Motion to Compel Discovery Responses and Request for Sanctions dated February 15, 2008. Therefore, Defendants owe Plaintiff not less than $1,700,000 as damages for that breach:

Damages for failure to issue shares = $ 1,700,000.00

C.1. Interest on Value of Undelivered Stock

a. Interest on Initial 1,100,000 Shares. The initial 1,100,000 shares were due upon the signing of the employment contract on June 18, 2004. Employment contract paragraph 6.4. Thus, as of June 30, 2008, the $1,100,000.00 in damages arising from the failure to issue those shares will have been owed for 4.033 years. Therefore,

Interest = $1,100,000.00 x 10%/year x 4.033 years = $ 443,630.00

b. **Interest on Additional 300,000 Shares.** The next 300,000 shares were due on February 18, 2005, eight months after the commencement of employment. Employment contract paragraph 6.6. Thus, as of June 30, 2008, the $300,000.00 in damages arising from the failure to issue those shares will have been owed for 3.366 years. Therefore,

Interest = $300,000.00 x 10%/year x 3.366 years = $ 100,980.00

c. **Interest on Final 300,000 Shares.** The final 300,000 shares were due on August 18, 2005, fourteen months after the commencement of employment. Employment contract

paragraphs 6.6 and 6.7. Thus, as of June 30, 2008, the $300,000.00 in damages arising from the failure to issue those shares will have been owed for 2.866 years. Therefore,

Interest = $300,000.00 x 10%/year x 2.866 years = $ 85,980.00

d. Daily Interest = $ 1,700,000.00 x 10%/year x 1 year/365 days. Therefore,

Post-063008 Daily Interest = $1,700,000.00/3650 = $ 465.75/day

D. Section 2802 Reimbursement / Indemnification

The employment contract requires Defendants to reimburse Plaintiff for his various expenses incurred in performing his duties on Defendants' behalf, including but not limited to reimbursement for the costs of lodging and transportation on trips to metropolitan Manila. The Arbitrator finds that Plaintiff requested that reimbursement repeatedly, but Defendants breached the employment contract by failing to provide the required reimbursement of Plaintiff's expenses, which total approximately $3,542.67. The employment contract further provides that, in the event of termination of Plaintiff without cause, he shall be entitled to 100% of any ongoing cost of lodging and transportation in Manila, up to a maximum of $1.000 per month, for a period up to one year after termination. The Arbitrator finds that none of that additional reimbursement has been paid by Defendants.

Discussion and Calculations of Damages

Defendant owes $3,542.67 in expense reimbursements to Plaintiff. Additionally, Plaintiff testified to his conservative estimate that he incurred $10,000.00 of ongoing costs of lodging and transportation in Manila during the first year after his termination, and the Arbitrator finds that estimate reasonable given Defendants' admissions and the absence of testimony or documents to the contrary. Thus, the Arbitrator finds that,

pursuant to California Labor Code section 2802, Plaintiff is entitled to reimbursement of those expenses, totaling $13,542.67, together with interest and attorneys' fees.

Damages for failure to reimburse expenses = $ 13,542.67

D.1. Interest on Unreimbursed Expenses

a. Interest on $3,542.67. The $3,542.67 was owed no later than September 30, 2005, the end of Plaintiff's employment, 2.75 years prior to June 30, 2008. Therefore,

Interest = $ 3,542.67 x 10%/year x 2.75 years = $ 974.23

b. Interest on $10,000.00. The average date of nonpayment of the post-termination reimbursements of expenses of lodging and transportation in Manila is the mid-point of the one-year period following the termination of Plaintiff's employment, *i.e.*, March 31, 2006. That is 2.25 years prior to June 30, 2008. Therefore,

Interest = $ 10,000.00 x 10%/year x 2.25 years = $ 2,250.00

c. Daily Interest = $ 13,542.67 x 10%/year x 1 year/365 days. Therefore,

Post-063008 Daily Interest = $13,542.67/3650 = $ 3.71/day

E. Return of Plaintiff's Property

The employment contract requires that all confidential information and materials provided to Defendants by Plaintiff be returned to Plaintiff. The Arbitrator finds that Plaintiff demanded orally and in writing that Defendants cease and desist from directly or indirectly utilizing, storing or distributing any of Plaintiff's materials including, without limitation, all power-point presentations, all Excel spreadsheet income models for the distribution force, all brochures, films, recordings, films from meeting presentations, training materials, copies of those materials that were distributed throughout the world, wording such as Progressive Compensation, charts created to show the residual

compensation under Progressive Compensation, ideas, and partial wording of those slogans utilized today that were derived from Plaintiff's materials. Additionally, the Arbitrator finds that Plaintiff demanded orally and in writing that Defendants announce to all of their distributors and employees worldwide that they are to cease using all such materials and to return them to Plaintiff immediately. The Arbitrator therefore finds that Defendants have further breached the employment contract by failing and refusing to comply with Plaintiff's demands as described in this paragraph.

Discussion and Calculations of Damages

The Arbitrator finds that Defendants were obligated to return all of Plaintiff's property to him upon termination, *i.e.*, on September 30, 2005. Plaintiff testified to his conservative estimate that his property was worth $60,000.00 at that time, and the Arbitrator finds that estimate reasonable given Defendants' admissions and the absence of testimony or documents to the contrary. The Arbitrator therefore finds that Defendants owe Plaintiff not less than $60,000.00 as damages for their failure or refusal to return his property:

Damages for failure to return property = $ 60,000.00

E.1. Interest on Damages for Failure to Return Property

a. Interest on $ 60,000.00. The $ 60,000.00 was owed no later than September 30, 2005, the end of Plaintiff's employment, 2.75 years prior to June 30, 2008. Therefore,

Interest = $ 60,000.00 x 10%/year x 2.75 years = $ 16,500.00

b. Daily Interest = $ 60,000.00 x 10%/year x 1 year/365 days. Therefore,

Post-063008 Daily Interest = $ 60,000.00/3650 = $ 16.44/day

F. Labor Code Section 203 Waiting Penalty

The Arbitrator finds that Defendants terminated Plaintiff's employment on September 29, 2005; that Plaintiff had accrued, unpaid wages owed to him in the amounts set forth above at that time, including all salary that should have been paid but was not, and all unpaid commissions in amounts equal to five percent of gross sales on an ongoing basis; and that the failure by Defendants, and each of them, to pay those wages and commissions to Plaintiff has continued to the present time.

The Arbitrator further finds that the failure of Defendants, and each of them, to pay Plaintiff earned wages as alleged in the complaint was willful in that Plaintiff repeatedly made both oral and written demands for payment of his earned wages while he was employed by Defendant, after the date of his termination by Defendant, and continuing up to the date of the filing of the lawsuit. The Arbitrator therefore finds that Plaintiff is entitled to "waiting penalties" under Labor Code Section 203, which provides that an employee's wages shall continue day by day, including weekends, until paid, up to a maximum penalty of thirty days' pay. Because more than thirty days have elapsed since he was terminated, Plaintiff is entitled to a penalty of thirty (30) days' wages pursuant to Labor Code Section 203.

Discussion and Calculations of Penalties

Plaintiff's final rate of pay was as follows:

Salary = $144,000.00/year x 1 year/52 weeks =	$ 2,769.23/week
Commission = $321,000.00/year x 1 year/52 weeks =	$ 6,173.08/week
Total	$ 8,942.31/week

Waiting Penalty = 30 days' pay = 6 weeks x $ 8,942.31/week = $ 53,653.86

G. Labor Code Section 226 Penalty

Plaintiff was employed from June 18, 2004, through September 29, 2005, a total of 15-1/2 months or 31 pay periods. California Labor Code section 226(a) requires that the employer provide a written, itemized statement ("pay stub") accompanying a paycheck and setting forth, among other things, the employee's gross wages and net wages for the pay period. Labor Code section 200 provides that "wages" include not only salary but commissions as well. The Arbitrator finds that the figures on Plaintiff's pay stubs did not include the commissions owed to him and therefore failed to provide accurate figures for gross wages and net wages in violation of Labor Code section 226(a). The Arbitrator finds that Defendants' violations of Labor Code section 226 were knowing and intentional and that the penalties provided by Section 226(e) of the Labor Code are owed to Plaintiff.

Discussion and Calculations of Penalties

Labor Code section 226(e) provides that an employee who receives pay stubs that violate section 226(a) is entitled to $50.00 for the first violation and $100.00 for each subsequent violation, up to a maximum of $4,000.00.

Defendants' violation of Labor Code section 226(a) in each of 31 pay periods entitles Plaintiff to Labor Code section 226 penalties computed as follows:

Section 226 Penalty = 1 pay stub x $50.00/pay stub
+ 30 pay stubs x $100.00/pay stub = $ 3,050.00

H. Punitive Damages

The Arbitrator finds that conduct of each of the Defendants, including Defendants' conversion of monetary sums and property belonging to Plaintiff and

Defendants' obtaining work and services from Plaintiff without paying him, was willful, wanton, malicious, and oppressive, and was despicable conduct that subjected Plaintiff to a cruel and unjust hardship in conscious disregard of Plaintiff's rights, and that that conduct was engaged in by managerial employees of Defendants, so as to justify an award of exemplary and punitive damages in an amount appropriate to punish and make an example of Defendants. The Arbitrator further notes that, notwithstanding the fact that they were requested and ordered to provide accounting books and records that would have lent insight into their true financial condition, Defendants refused to provide those books and records.

By virtue of Defendants' admissions and the other evidence in this case, Plaintiff has established by clear and convincing evidence that Defendants, and each of them, engaged in a pattern of despicable conduct that constitutes oppression, fraud and malice within the meaning of section 3294 of the California Civil Code, so as to justify an award of exemplary and punitive damages. The Arbitrator therefore awards punitive and exemplary damages to Plaintiff, as a joint and several obligation of Defendants. in an amount equal to three times the damages awarded above, other than those amounts awarded for interest, penalties and attorneys' fees and costs. Therefore,

Punitive Damages = 3 x $ 975,425,558.09 = $ 2,926,276,674.27

I. Attorneys' Fees and Costs

Plaintiff is the prevailing party in this matter and therefore is entitled to attorneys' fees pursuant to Labor Code §§ 218.5, 226, 1194 and 2802, as well as 29 U.S.C. §216.

The Arbitrator has reviewed the lodestar calculations for Plaintiff's attorneys as provided in the declarations of Scot Bernstein and Steve A. Buchwalter, which were

submitted at the hearing. The Arbitrator finds Scot Bernstein's billing rate of $550.00 per hour to be reasonable, and finds Steve A. Buchwalter's billing rate of $300.00 per hour to be reasonable. The Arbitrator further finds that the 325.0 hours expended on this case by Mr. Bernstein through June 18, 2008, and the 108.0 hours expended on this case by Mr. Buchwalter, to be reasonable. Thus, the Arbitrator has determined that the lodestar amounts of $178,750.00 for Mr. Bernstein and $32,400.00 for Mr. Buchwalter are reasonable, as are the $1,054.55 in cost advances by Mr. Bernstein.

The Arbitrator recognizes that merely paying the lodestar amount will not fully compensate Plaintiff's counsel for their work.

> "It has long been recognized, however, that the contingent and deferred nature of the fee award in civil rights or other cases with statutory attorney fees requires that the fee be adjusted in some manner to reflect the fact that the fair market value of the legal services provided on that basis is greater than the equivalent noncontingent hourly rate."

Horsford v. Board of Trustees (2005) 132 Cal.App.4th 359.

> "A lawyer who both bears the risk of not being paid and provides legal services is not receiving the fair market value of his work if he is paid only for the second of these functions. If he is paid no more, competent counsel will be reluctant to accept fee award cases."

Ketchum at 1133, quoting with approval from Leubsdorf, the Contingency Factor in Attorney Fee Awards (1981) 90 Yale L.J. 473, 480.

> "The purpose of a fee enhancement, or so-called multiplier, for contingent risk is to bring the financial incentives for attorneys enforcing important constitutional rights, such as those protected under the anti-SLAPP provision, into line with incentives they have to undertake claims for which they are paid on a fee-for-services basis."

Ketchum at 1132.

The right of employees to their pay is a matter of the fundamental public policy of the State of California and is worthy of the same kind of protection.

In determining the appropriate multiplier to award in this case, the Arbitrator has considered the contingent nature of the fee award; the novelty and complexity of the litigation; the undesirability of the case; counsel's skill in preparing and presenting the case; and the results obtained. Based upon those factors, the Arbitrator has determined that a multiplier of 3.0 shall be applied to the fees of Plaintiffs' attorneys in this case. Therefore,

Attorneys' Fees = 3.0 x ($178,750.00 + $32,400.00) = $ 633,450.00

Summary of Award

Plaintiff is awarded, and Defendants iFreedom Communications Incorporated, iFreedom Communications International Holdings, Limited, and Timothy Ringgenberg, jointly and severally, shall pay to Plaintiff the following sums:

Compensatory Damages (A + B + C + D + E)	$ 975,425,558.09
Interest on Compensatory Damages (A.1.a. + B.1.a. + C.1.a., b. & c. + D.1.a. & b. + E.1.a.)	$ 1,420,011.82
Labor Code Section 203 Waiting Penalties (F)	$ 53,653.86
Labor Code Section 226 Penalties (G)	$ 3,050.00
Punitive Damages (H)	$ 2,926,276,674.27
Attorneys' Fees (I)	$ 633,450.00
Attorneys' Costs (I)	$ 1,054.55
Sanctions Previously Awarded (Paragraph 8, above)	$ 1,210.00
JAMS Fees Paid by Plaintiff (Paragraph 9, above)	$ 5,532.45
Post-June 30, 2008, Daily Interest (A.1.b. + B.1.b. + C.1.d. + D.1.c. + E.1.b.)	$ 267,239.88

Simple interest shall accrue on all amounts set forth above at the rate of ten percent (10%) per annum commencing on the date of service of this award.

Defendants had twenty calendar days following the date of service of the Interim Arbitration Award herein to file and serve Plaintiff with any objections to the Interim Arbitration Award. They did not do so. Accordingly, this Award is final.

Dated: 1/8/09

Hon. William F. McDonald (Ret.)
Arbitrator