

COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

STATE OF OHIO, *EX REL.* JIM PETRO,)
ATTORNEY GENERAL)
140 East Town Street, 12th Floor)
Columbus, Ohio 43215)
Plaintiff,)
vs.)
VILLAGE VOICE MEDIA, LLC and)
NT MEDIA, LLC,)
Defendants.)

Judge: TIMOTHY MCCORMICK



CV 03 492804

JUDGE:

FINAL JUDGMENT

WHEREAS, the Attorney General of Ohio ("Plaintiff") filed his Complaint on January 27, 2003, alleging that Defendants Village Voice Media and NT Media entered into agreements in violation of Sections 1331.01 and 1331.04 of the Ohio Revised Code, and the Plaintiff and Defendants, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against, or any admission by, any party regarding any such issue of fact or law;

AND WHEREAS, Village Voice Media and New Times agree to be bound by the provisions of this Final Judgment pending its approval by this Court;

AND WHEREAS, the essence of this Final Judgment is the prompt and certain divestiture of certain rights or assets and payment of forfeitures by Village Voice Media and New Times to restore the loss of competition alleged in the Complaint;

AND WHEREAS, Plaintiff requires Village Voice Media and New Times to agree to certain procedures and prohibitions for the purpose of restoring the loss of competition alleged in the Complaint;

AND WHEREAS, Plaintiff requires Village Voice Media and New Times to make certain divestitures and to pay certain forfeitures for the purpose of remedying the loss of competition alleged in the Complaint;

AND WHEREAS, Village Voice Media and New Times have represented to Plaintiff that the divestitures ordered below can and will be made, subject to the terms of a Final Judgment agreed to by Village Voice Media, New Times and the United States Department of Justice and submitted on January 27, 2003 to the United States District Court for the Northern District of Ohio, and that they will later raise no claim of hardship or difficulty as grounds for asking this Court to modify any of the divestiture provisions contained in that agreed Final Judgment;

NOW THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is ORDERED, ADJUDGED AND DECREED:

I. JURISDICTION

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against Village Voice

Media and New Times under Ohio Revised Code Sections 1331.01, 1331.03, 1331.04, 1331.06 and 1331.11.

II. DEFINITIONS

As used in this Final Judgment:

(A) “Acquirer” or “Acquirers” means the entity or entities to which Defendants divest the Divestiture Assets.

(B) “Alternative Newsweekly” means a publication (such as the *Cleveland Scene* or *LA Weekly*) that possesses more than one of the following attributes: (i) it is published in a geographic area served by one or more daily newspapers to which residents turn as their primary source or sources of printed news; (ii) it is published weekly (or less frequently), and at least 24 times annually; (iii) it is distributed for free; (iv) it is not owned by a daily newspaper publishing company; and (v) it is a general interest publication that does not focus exclusively on one specific topic, such as music, entertainment, religion, the environment, or a political party or organization.

(C) “Cleveland Asset Purchase Agreement” means the Asset Purchase Agreement by and among Cleveland Free Times Media, Inc., Cleveland Scene, LLC, Village Voice Media, LLC, and NT Media, LLC, dated October 1, 2002, and any agreements ancillary thereto.

(D) “*Cleveland Free Times* Assets” means all assets within the possession, custody or control of Village Voice Media and New Times that were formerly employed in the publication of the *Cleveland Free Times* Alternative Newsweekly in the Greater Cleveland Area by Village Voice Media before October 1, 2002, including, but not limited to:

- (1) all rights to the *Cleveland Free Times* name (and any derivations thereof), logo, layout and design, including all legal rights, including intellectual property rights associated with the *Cleveland Free Times*, including

trademarks, trade names, service names, service marks, designs, trade dress, patents, copyrights and all licenses and sublicenses to such intellectual property to the fullest extent sublicensable; provided that, with respect to any rights not legally transferable, Village Voice Media shall assist, and neither impede nor hinder, the Acquirer in negotiating with, and obtaining all necessary legal rights from, the third party who controls such rights;

- (2) except for the payroll systems located in New York, New York, all computer hardware, software and licensing agreements associated with that software to the fullest extent sublicensable (provided that, with respect to any rights not legally transferable, Village Voice Media shall assist, and neither impede nor hinder, the Acquirer in negotiating with, and obtaining all necessary legal rights from, the third party who controls such rights); and all information relating to the *Cleveland Free Times* stored on the computer hardware, including all design templates and databases;
- (3) all office furniture, telephone systems, T-1 lines, fax machines, copy machines, stationery, business cards, rate kits, and all other supplies and equipment used by the *Cleveland Free Times*;
- (4) all rights to the *Cleveland Free Times* website and URL (www.freetimes.com);
- (5) all rights to the print and electronic archives of the *Cleveland Free Times* publications and articles on a non-exclusive basis;
- (6) all assets used in the publication of the *Cleveland Free Times*, including all distribution racks, street distribution boxes, permits and licenses for individual distribution racks and boxes, route sheets, and leases or other rights to real property from which Village Voice Media published the *Cleveland Free Times*; and
- (7) all other tangible and intangible assets used in the publication of the *Cleveland Free Times*, including, but not limited to: all other leases; all licenses, permits and authorizations issued by any governmental organization; all contracts, teaming arrangements, agreements, commitments, certifications, and understandings, including supply agreements; all customer lists, contracts, accounts, and credit records; all agreements with retailers, wholesalers, or any other person regarding the sale, promotion, marketing, advertising or placement of such products; all graphics and artwork relating to the *Cleveland Free Times*; all other records stored in the offices of, or generated by or for, the *Cleveland Free Times*; all technical information, computer software and related documentation, and know-how, and information relating to plans for, or

improvements to, the *Cleveland Free Times*; all research, packaging, sales, marketing, advertising and distribution know-how, and documentation, including marketing and sales data, and layout designs; all manuals and technical information Village Voice Media provided to any of its *Cleveland Free Times* employees, customers, suppliers, agents or licensees; and all specifications for materials.

(E) “*Cleveland Scene Termination Period*” means the period of time beginning October 1, 2002, and ending thirty (30) calendar days after consummation of the divestiture of the *Cleveland Free Times Assets*.

(F) “*Divestiture Assets*” means the *Cleveland Free Times Assets*.

(G) “*Greater Cleveland Area*” means the counties of Cuyahoga, Lake, Geauga, Portage, Summit, Medina and Lorain in the state of Ohio.

(H) “*New Times*” means Defendant NT Media, LLC, a limited liability company organized and existing under the laws of the State of Delaware with its headquarters in Phoenix, Arizona, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, including without limitation *Cleveland Scene, LLC*, and *New Times Los Angeles, LP*, and their directors, officers, managers, agents, and employees.

(I) “*Los Angeles Asset Purchase Agreement*” means the Asset Purchase Agreement among *LA Weekly Media, Inc.*, *New Times Los Angeles, LP*, *Village Voice Media, LLC*, and *NT Media, LLC*, dated October 1, 2002, and any agreements ancillary thereto.

(J) “*Publication*” means all activities associated with the business of offering an *Alternative Newsweekly* to the public as a commercial endeavor, including, but not limited to, editing, writing, printing, circulating, operating, marketing, and distributing such *Alternative Newsweekly*, and selling advertisements and promotions therein.

(K) “Village Voice Media” means Defendant Village Voice Media, LLC, a limited liability company organized and existing under the laws of the State of Delaware with its headquarters in New York, New York, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, including without limitation LA Weekly Media, Inc. and Cleveland Free Times Media, Inc., and their directors, officers, managers, agents, and employees.

(L) The terms “and” and “or” have both conjunctive and disjunctive meanings.

III. APPLICABILITY

(A) This Final Judgment applies to Village Voice Media and New Times, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

(B) Defendants shall require, as a condition of the sale or other disposition of all or substantially all of its assets or of lesser business units that include any of the Divestiture Assets, that the purchaser agrees to be bound by the provisions of this Final Judgment, provided however, that Village Voice Media and New Times need not obtain such an agreement from the Acquirer(s).

IV. PROHIBITED AND REQUIRED CONDUCT

(A) Village Voice Media and New Times are enjoined as of the filing of the Complaint in this matter from taking any actions in furtherance of, or required under, either the Cleveland Asset Purchase Agreement or the Los Angeles Asset Purchase Agreement. Village Voice Media’s and New Times’ obligations under this Final Judgment supersede their obligations under either of these agreements, and Village Voice Media and New Times shall not

object to the performance of their obligations under this Final Judgment on the grounds that those obligations would cause them to breach either agreement.

(B) For a period of two (2) years commencing upon the filing date of the Complaint in this matter, New Times shall permit any advertiser that entered during the *Cleveland Scene* Termination Period into a written or oral contract to advertise in, or engage in a promotion with, the *Cleveland Scene*, solely at the advertiser's option, to terminate such contract without penalty, retaliatory action, or threat of retaliatory action. The *Cleveland Scene* Termination Period shall be the period of time beginning October 1, 2002, and ending thirty (30) calendar days after consummation of the divestiture of the *Cleveland Free Times* Assets. New Times shall provide all affected advertisers a copy of this Final Judgment within fifteen (15) calendar days after the filing of the Complaint in this matter, and inform in writing all affected advertisers within: (i) fifteen (15) calendar days after the filing of the Complaint in this matter; and (ii) thirty (30) calendar days after consummation of the divestiture of the *Cleveland Free Times* Assets, of their right to terminate at their option their advertising or promotion contracts with the *Cleveland Scene*.

(C) Each Defendant, its officers, directors, agents, and employees, acting or claiming to act on its behalf, and successors and all other persons acting or claiming to act on its behalf, is enjoined and restrained from, in any manner, directly or indirectly, entering into, continuing, maintaining, or renewing any market or customer allocation agreement, or from engaging in any other combination, conspiracy, contract, agreement, understanding or concert of action having a similar purpose or effect, and from adopting or following any practice, plan, program, or device having a similar purpose or effect.

(D) For any employee involved in the publication of the *Cleveland Free Times* as of October 1, 2002, any non-compete provision imposed by Village Voice Media shall be null and void. For a period from the filing of the Complaint to one year from the divestiture of the *Cleveland Free Times* Assets, Defendants shall not enforce any other non-compete contractual provisions against any of their former or current employees of the *Cleveland Free Times* or the *Cleveland Scene* in the Greater Cleveland Area.

(E) Defendants shall notify in writing all affected former and current employees that such non-compete contractual provisions will not be enforced.

V. DIVESTITURES

Defendants are ordered and directed to divest the Divestiture Assets in a manner consistent with the Final Judgment agreed to by Village Voice Media, New Times and the United States Department of Justice and submitted by the parties thereto on January 27, 2003 to the United States District Court for the Northern District of Ohio.

VI. AFFIDAVITS

(A) Within fifteen (15) calendar days of the filing of the Complaint in this matter, and every thirty (30) calendar days thereafter until the divestiture[s] has been completed, Defendants each shall deliver to the Plaintiff and to the Assistant Attorney General in charge of the Antitrust Division of the United States Department of Justice an affidavit as to the fact and manner of its compliance with this Final Judgment. Each such affidavit shall include the name, address, and telephone number of each person who, during the preceding thirty (30) days, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Divestiture Assets, and shall describe in

detail each contact with any such person during that period. Each such affidavit shall also include a description of the efforts Defendants have taken to solicit buyers for the Divestiture Assets, and to provide required information to prospective purchasers, including the limitations, if any, on such information. Assuming the information set forth in the affidavit is true and complete, any objection by the Plaintiff to information provided by Defendants, including limitation on information, shall be made within five (5) calendar days of receipt of such affidavit.

(B) Defendants shall keep all records of all efforts made to preserve and divest the Divestiture Assets until one year after such divestiture has been completed.

VII. COMPLIANCE INSPECTION

(A) For the purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time duly authorized representatives of the Plaintiff, including consultants and other persons retained or designated by the Plaintiff, shall, upon written request of a duly authorized representative of the Ohio Attorney General, and on reasonable notice to Defendants, be permitted:

- (1) access during Defendants' office hours to inspect and copy, or at the Plaintiff's option, to require Defendants to provide copies of all books, ledgers, accounts, records and documents in their possession, custody, or control relating to any matters contained in this Final Judgment; and
- (2) to interview, either informally or on the record, Defendants' officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable

convenience of the interviewee and without restraint or interference by Defendants.

(B) Upon the written request of a duly authorized representative of the Ohio Attorney General, Defendants shall submit written reports, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

(C) No information or documents obtained by the means provided in this section shall be divulged by Plaintiff to any person other than an authorized representative of the Attorney General of Ohio and to the Assistant Attorney General in charge of the Antitrust Division of the United States Department of Justice, except in the course of legal proceedings to which Plaintiff is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

(D) If at the time Defendants furnish information or documents to the Plaintiff, they represent and identify in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Ohio Rules of Civil Procedure, and mark each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Ohio Rules of Civil Procedure," then Plaintiff shall give Defendants ten (10) calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

VIII. NO REACQUISITION

Defendants may not reacquire any part of the Divestiture Assets during the term of this Final Judgment.

IX. FORFEITURE

(A) Village Voice Media shall pay the sum of \$45,000 as a forfeiture pursuant to Section 1331.03 for alleged daily violations of Ohio Revised Code Section 1331.01 and 1331.04. Said payment shall be made within thirty (30) calendar days of entry of judgment by providing the Ohio Attorney General's Office with a check made payable to the State of Ohio in the amount of \$45,000.

(B) New Times shall pay the sum of \$45,000 as a forfeiture pursuant to Section 1331.03 for alleged daily violations of Ohio Revised Code Section 1331.01 and 1331.04. Said payment shall be made within thirty (30) calendar days of entry of judgment by providing the Ohio Attorney General's Office with a check made payable to the State of Ohio in the amount of \$45,000.

(C) The Ohio Attorney General is awarded reasonable fees and investigative costs in the amount of \$40,000. Each Defendant shall each pay the sum of \$20,000 to said plaintiff within thirty (30) calendar days of entry of judgment.

X. RETENTION OF JURISDICTION

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

XI. EXPIRATION OF FINAL JUDGMENT

Unless this Court grants an extension, this Final Judgment shall expire five years from the date of its entry.

XII. NOTICE

For the purposes of this Final Judgment, any notice or other communication shall be given to the person at the address set forth below (or such other addresses as the Ohio Attorney General may specify in writing to New Times or Village Voice Media):

Senior Deputy Attorney General
Antitrust Section
Office of the Attorney General of Ohio
140 East Town Street, 12th Floor
Columbus, Ohio 43215

Dated: 1/27/03

SO ORDERED:

ASSIGNED JUDGE Richard J. McConaha
Richard J. McConaha
ADMINISTRATIVE JUDGE
Judge, Cuyahoga County Court of Common Pleas

THE STATE OF OHIO Cuyahoga County	S.S. I. GERALD E. FUERST, CLERK OF THE COURT OF COMMON PLEAS WITHIN AND FOR SAID COUNTY
HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY TAKEN AND COPIED FROM THE ORIGINAL	
NOW ON FILE IN MY OFFICE. <u>Jan 27, 2003</u>	
WITNESS MY HAND AND SEAL OF SAID COURT THIS <u>27</u> DAY OF <u>Jan</u> A.D. 20 <u>03</u>	
GERALD E. FUERST, Clerk	
By <u>D. J. Skindroski</u>	Deputy

RECEIVED FOR FILING

JAN 27 2003

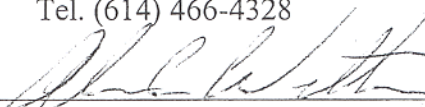
GERALD E. FUERST, CLERK
BY B. M. [Signature] DEP.

STIPULATION TO ENTRY OF FINAL JUDGMENT

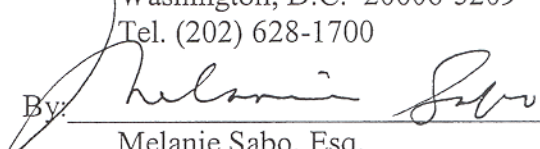
Plaintiff and Defendant, by their respective attorneys, hereby consent to the entry of the foregoing Final Judgment without trial or adjudication of any issue of fact or law, and stipulate that this Final Judgment be entered by the Court without further notice.

Respectfully submitted,

STATE of OHIO
JIM PETRO
Attorney General
Antitrust Section
140 East Town Street, 12th Fl.
Columbus, Ohio 43215
Tel. (614) 466-4328

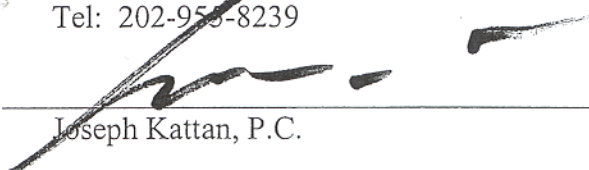
By: 
Alan C. Witten, Bar No. 0017565
Assistant Attorney General
Mitchell L. Gentile
Principal Deputy Attorney General

PRESTON GATES ELLIS
& ROUVELAS MEEDS LLP
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By: 
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Attorneys for Village Voice Media, LLC.

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By: 
Joseph Kattan, P.C.
Counsel for NT Media, LLC

IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO

STATE OF OHIO, *EX REL.* JIM PETRO,
ATTORNEY GENERAL

140 East Town Street, 12th Floor
Columbus, Ohio 43215

Plaintiff,

vs.

VILLAGE VOICE MEDIA, LLC and
NT MEDIA, LLC,

Defendants.

CIVIL ACTION NO:

Judge: TIMOTHY MCCORMICK



CV 03 492804

JUDGMENT ENTRY OF DISMISSAL WITH PREJUDICE

THIS CAUSE came on for hearing before this Court on agreement of the
Plaintiffs and Defendants through their respective attorneys.

Pursuant to the agreed Final Judgment entered this day all claims previously
asserted against defendant Village Voice Media, LLC and NT Media, LLC have been
settled to the mutual satisfaction of Plaintiff and Defendants. It is now ADJUDGED,
ORDERED, and DECREED as follows:

This action shall be and hereby is DISMISSED WITH PREJUDICE, with each
party to bear its own costs.

THE STATE OF OHIO }
Cuyahoga County } SS. I. GERALD E. FUERST, CLERK OF
THE COURT OF COMMON PLEAS
WITHIN AND FOR SAID COUNTY.
HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS TRULY
TAKEN AND COPIED FROM THE ORIGINAL
NOW ON FILE IN MY OFFICE.
WITNESS MY HAND AND SEAL OF SAID COURT THIS 27
DAY OF Jan A.D. 20 03
GERALD E. FUERST, Clerk
By [Signature] Deputy

ASSIGNED JUDGE [Signature]
JUDGE
1/27/03
Date

RECEIVED FOR FILING

JAN 27 2003

GERALD E. FUERST, CLERK
BY [Signature] DEP.