

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**Case No. 12-60504-CIV-SCOLA**

**FEDERAL TRADE COMMISSION,**

Plaintiff,

v.

**PREMIER PRECIOUS METALS, INC.,**

a Florida corporation,

**RUSHMORE CONSULTING GROUP, INC.,**

a Florida corporation,

**PPM CREDIT, INC.,**

a Florida corporation, and

**ANTHONY J. COLUMBO**, individually and  
as an owner, officer, and director of PREMIER  
PRECIOUS METALS, INC., RUSHMORE  
CONSULTING GROUP, INC., and PPM  
CREDIT, INC.,

Defendants.

**STIPULATED ORDER FOR PERMANENT INJUNCTION  
AND MONETARY JUDGMENT**

Plaintiff, Federal Trade Commission (“FTC” or “Commission”), filed its Complaint for Permanent Injunction and Other Equitable Relief (“Complaint”) pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b. The Commission and Defendants Premier Precious Metals, Inc., Rushmore Consulting Group, Inc., PPM Credit, Inc., and Anthony J. Columbo stipulate to the entry of this Stipulated Final Order for Permanent Injunction and Monetary Judgment (“Order”) to resolve all matters in dispute in this action between them.

**THEREFORE, IT IS ORDERED** as follows:

**FINDINGS**

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants participated in deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, and the Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310, in connection with the advertising, marketing, promoting, or offering for sale of leveraged precious metals investments.
3. Defendants neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendants admit the facts necessary to establish jurisdiction.
4. Defendants waive any claim that they may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agree to bear their own costs and attorney fees.
5. Defendants and the Commission waive all rights to appeal or otherwise challenge or contest the validity of this Order.

**DEFINITIONS**

1. **“Commercial Communication”** means any written or oral statement, illustration, or depiction that is designed to effect a sale or create interest in purchasing goods or services, whether it appears on or in a label, package, package insert, radio, television, cable television, brochure, newspaper, magazine, pamphlet, leaflet, circular, mailer, book insert, free standing insert, letter, catalogue, poster, chart, billboard, public transit card, point of purchase display, film, slide, audio program transmitted over a telephone system, telemarketing script, on-hold script, upsell script, training materials provided to telemarketing firms, program-length commercial (“infomercial”), the Internet, cellular network, or any other medium. Promotional materials and items and Web pages are included in the term “Commercial Communication.”
2. **“Clear and Conspicuous Manner”** means:
  - a. In print Commercial Communications, the message shall be presented in a manner that stands out from the accompanying text, so that it is

sufficiently prominent, because of its type size, contrast to the background against which it appears, location, or other characteristics, for an ordinary consumer to notice, read, and comprehend it in relation to any claim it may be modifying;

- b. In oral Commercial Communications, the message shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it;
- c. In Commercial Communications made through an electronic medium (such as television, video, radio, and interactive media such as the Internet, online services, mobile services and software), the message shall be presented simultaneously in both the audio and visual portions of the communication. In any communication presented solely through visual or audio means, the message shall be made through the same means in which the communication is presented. In any communication disseminated by means of an interactive electronic medium such as software, the Internet, online services, or mobile services, a disclosure must be unavoidable and presented prior to the consumer incurring any financial obligation. Any audio message shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it in relation to any claim it may be modifying. Any visual message shall be presented in a manner that stands out in the context in which it is presented, so that it is sufficiently prominent, because of its size and shade, contrast to the background against which it appears, length of time it appears on the screen, and its location, for an ordinary consumer to notice, read, and comprehend it in relation to any claim it may be modifying; and
- d. Regardless of the medium used to disseminate it, the message shall be in understandable language and syntax. Nothing contrary to, inconsistent with, or in mitigation of the message shall be used in any communication.

3. **“Corporate Defendants”** means Premier Precious Metals, Inc. (“PPM”), Rushmore Consulting Group, Inc. (“Rushmore”), PPM Credit, Inc. (“PPM Credit”), and their successors and assigns.

4. **“Defendants”** means the “Individual Defendant” and all of the “Corporate Defendants,” individually, collectively, or in any combination.

5. **“Individual Defendant”** means Anthony J. Columbo.

6. **“Investment Opportunity”** means anything tangible or intangible that is offered, offered for sale, sold, or traded based wholly or in part on representations, either express or implied, about past, present, or future income, profit, appreciation, or risk.

7. **“Net Proceeds”** means any sum remaining after satisfaction of senior recorded liens and after payment to third parties reasonable and customary fees, commissions or closing costs associated with the sale of any asset.

8. **“Outbound Telephone Call”** means a telephone call initiated by a telemarketer to induce the purchase of goods or services.

9. **“Person”** means an individual, organization, or other legal entity, including but not limited to an association, cooperative, corporation, limited liability company, organization, partnership, proprietorship, trust, or any other group or combination thereof.

10. **“Telemarketing”** means any plan, program or campaign which is conducted to induce the purchase of goods or services by the use of one or more telephones, and which involves a telephone call, whether or not covered by the Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310.

## **ORDER**

### **I. PERMANENT BAN ON INVESTMENT OPPORTUNITIES**

**IT IS HEREBY ORDERED** that Defendants are permanently restrained and enjoined from advertising, marketing, promoting, offering for sale, or assisting in the advertising, marketing, promoting, or offering for sale of any Investment Opportunity.

**II. PROHIBITED BUSINESS ACTIVITIES**

**IT IS FURTHER ORDERED** that Defendants, their officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the advertising, marketing, promoting, or offering for sale of any good or service, are permanently restrained and enjoined from:

A. Misrepresenting, directly or by implication, any material term of a sales offer, including but not limited to:

1. The total costs to purchase, receive, or use the goods or services offered, including all commissions, fees, interest charges, and amounts leveraged or financed;
2. The quantity of the goods or services;
3. All material restrictions, limitations, or conditions to purchase, receive, or use the goods or services offered, including any circumstance in which the payment of additional money would be required;

B. Failing to adequately disclose all material terms of a sales offer truthfully, in a Clear and Conspicuous Manner, and before a consumer agrees to pay, including but not limited to:

1. The total costs to purchase, receive, or use the goods or services offered, including all commissions, fees, interest charges, and amounts leveraged or financed;
2. The quantity of the goods or services;
3. All material restrictions, limitations, or conditions to purchase, receive, or use the goods or services offered, including any circumstance in which the payment of additional money would be required; and

C. Assisting others in violating any provision of Paragraphs A or B of this Section.

**III. AUDIO RECORDING OF TELEMARKETING**

**IT IS FURTHER ORDERED** that Defendants, their officers, agents, servants, and employees, and attorneys, and all other persons in active concert or participation with any of

them, who receive actual notice of this Order, in connection with Telemarketing for or on behalf of a business that any Defendant is a majority owner of or that any Defendant controls, directly or indirectly, are restrained and enjoined for a period of ten (10) years after entry of this Order from failing to make an audio recording of the entirety of each Telemarketing call, including all inbound and Outbound Telephone Calls.

**IV. PROHIBITION AGAINST TELEMARKETING VIOLATIONS**

**IT IS FURTHER ORDERED** that Defendants and their officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with telemarketing, are hereby permanently restrained and enjoined from engaging in, causing other persons to engage in, and assisting other persons to engage in, violations of the Telemarketing Sales Rule, including but not limited to failing to disclose truthfully, in a clear and conspicuous manner, before a consumer agrees to pay for goods or services:

- A. The total costs to purchase, receive, or use, and the quantity of, any goods or services that are the subject of the sales offer; and
- B. All material restrictions, limitations, or conditions to purchase, receive, or use the goods or services that are the subject of the sales offer.

*Provided, however,* that if the Commission promulgates rules that modify or supersede the Telemarketing Sales Rule, in whole or part, Defendants shall comply fully and completely with all applicable requirements thereof, on and after the effective date of any such rules.

**V. CUSTOMER INFORMATION**

**IT IS FURTHER ORDERED** that Defendants, their officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, are permanently restrained and enjoined from directly or indirectly:

- A. Failing to provide sufficient customer information to enable the Commission to efficiently administer consumer redress. If a representative of the Commission requests in writing any information related to redress, Defendants must provide it, in the form prescribed by the Commission, within fourteen (14) days;

B. Disclosing, using, or benefitting from customer information, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account) that any Defendant obtained prior to entry of this Order in connection with the advertising, marketing, promoting, or offering for sale leveraged precious metals investments; and

C. Failing to destroy such customer information in all forms in their possession, custody, or control within fourteen (14) days after receipt of written direction to do so from a representative of the Commission.

*Provided, however,* that customer information need not be disposed of, and may be disclosed, to the extent requested by a government agency or required by law, regulation, or court order.

**VI. MONETARY JUDGMENT**

**IT IS FURTHER ORDERED** that:

A. Judgment in the amount of \$3,613,504.11 (Three Million, Six Hundred Thirteen Thousand, Five Hundred Four Dollars and Eleven Cents) is entered in favor of the Commission and against Defendants, jointly and severally, as equitable monetary relief.

B. In partial satisfaction of the judgment against Defendants, within seven (7) days of receiving notice of this Order:

1. Scottrade, its parent corporation, subsidiaries, principals, and agents shall liquidate and transfer to the Commission by wire transfer in accordance with instructions to be provided by the Commission, all funds in the name of, or for the benefit of, Defendants, including, but not limited to Account No. xxxx4041 held in the name of Anthony Columbo;
2. SunTrust, its parent corporation, subsidiaries, principals, and agents shall transfer to the Commission by wire transfer in accordance with instructions to be provided by the Commission, all funds in the name of, or for the benefit of, Defendants, including, but not limited to Account No. xxxx4419 held in the name of Anthony Columbo;

3. Defendant Columbo shall surrender to the Receiver, or his designated representative, possession of the real property located at 2305 N. Riverside Drive, Pompano Beach, Florida 33062. Upon the Receiver's request, Defendant Columbo shall promptly transfer title to the property to the Receiver or the Receiver's designated representative. The Receiver shall liquidate Defendant's interest in said property in accordance with Section VIII of this Order. The Net Proceeds from the sale shall be paid to the Commission;
4. Defendant Columbo shall surrender to the Receiver, or his designated representative, possession of the real property located at 740 Horizons Way, Unit 205, Boynton Beach, Florida 33435. Upon the Receiver's request, Defendant Columbo shall promptly transfer title to the property to the Receiver or the Receiver's designated representative. The Receiver shall liquidate Defendant's interest in said property in accordance with Section VIII of this Order. The Net Proceeds from the sale shall be paid to the Commission;
5. Defendant Columbo, to the extent that he has not already done so, shall deliver to the Receiver, or the Receiver's designated representative, possession of the Silver Coins identified in Defendant Columbo's financial statement dated March 23, 2012. The Receiver shall liquidate Defendant's interest in said property in accordance with Section VIII of this Order. The Net Proceeds from the sale shall be paid to the Commission;

C. Upon such payments and transfers of assets set forth in Subsection B above, the remainder of the judgment is suspended, subject to Subsections D-F below.

D. The Commission's agreement to the suspension of part of the judgment is expressly premised upon the truthfulness, accuracy, and completeness of Defendants' sworn financial statements and related documents (collectively "Financial Statements") submitted to the Commission, namely:



1. The Financial Statement of Corporate Defendant Premier Precious Metals, Inc., signed on March 23, 2012;
2. The Financial Statement of Corporate Defendant Rushmore Consulting Group, Inc., signed on March 23, 2012;
3. The Financial Statement of Corporate Defendant PPM Credit, Inc., signed on March 23, 2012, including the attachments; and
4. The Financial Statement of the Individual Defendant Columbo signed on March 23, 2012.

E. The suspension of the judgment will be lifted as to any Defendant if, upon motion by the Commission, the Court finds that Defendant failed to disclose any material asset, materially misstated the value of any asset, or made any other material misstatement or omission in the financial representations identified above.

F. If the suspension of the judgment is lifted, the judgment becomes immediately due as to that Defendant in the amount specified in Subsection A above, which the parties stipulate only for purposes of this Section represents the consumer injury alleged in the Complaint, less any payment previously made pursuant to this Section, plus interest computed from the date of entry of this Order.

**VII. ADDITIONAL MONETARY PROVISIONS**

**IT IS FURTHER ORDERED** that:

A. Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

B. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission, including in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.

C. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

D. Defendants acknowledge that their Taxpayer Identification Numbers (Social Security and Employer Identification Numbers), which Defendants must submit to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

E. All money paid to the Commission pursuant to this Order may be deposited into a fund administered by the Commission or its designee to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the Commission decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the Complaint. Any money not used for such equitable relief is to be deposited to the U.S. Treasury as disgorgement. Defendants have no right to challenge any actions the Commission or its representatives may take pursuant to this Subsection.

#### **VIII. RECEIVERSHIP TERMINATION**

**IT IS FURTHER ORDERED** that:

A. The appointment of Curtis Miner as Receiver pursuant to the Preliminary Injunction entered on April 3, 2012, is hereby continued in full force and effect except as modified by this Section. The Receiver shall take all steps necessary or advisable to locate and liquidate the Receivership Assets. Once the Receiver has located and liquidated all Receivership Assets and those assets received pursuant to Section VI of this Order; and satisfied his obligations pursuant to the Preliminary Injunction, the Receiver shall submit his final report and application for fees and expenses. Upon approval by the Court of the Receiver's final report and application for fees and expenses, the Receiver shall pay any remaining funds to the Commission. Upon the payment of any remaining funds to the Commission under this Section, the Receivership shall be terminated.

B. The Receiver must complete all duties within 180 days after entry of this Order, but any party or the Receiver may request that the Court extend the Receiver's term for good cause.

**IX. ASSET FREEZE**

**IT IS FURTHER ORDERED** that, upon entry of this Order, the freeze of Defendants' assets is modified to permit the payments and transfers identified in Section VI. Upon satisfaction of all payments and transfers identified in Section VI, the freeze of Defendants' assets shall be dissolved.

**X. COOPERATION**

**IT IS FURTHER ORDERED** that Defendants must fully cooperate with the Commission and the Receiver in this case and in any investigation related to or associated with the transactions or the occurrences that are the subject of the Complaint or other actions brought by the Receiver. Defendants must provide truthful and complete information, evidence, and testimony. The Individual Defendant must appear and the Corporate Defendants must cause their officers, employees, representatives, or agents to appear for interviews, discovery, hearings, trials, and any other proceedings that the Commission or the Receiver may reasonably request upon five (5) days written notice, or other reasonable notice, at such places and times as the Commission or the Receiver may designate, without the service of a subpoena.

**XI. ORDER ACKNOWLEDGMENTS**

**IT IS FURTHER ORDERED** that Defendants obtain acknowledgments of receipt of this Order:

A. Each Defendant, within seven (7) days of entry of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For thirteen (13) years after entry of this Order, the Individual Defendant, for any business that he, individually or collectively with any other Defendant, is the majority owner or controls, directly or indirectly, and each Corporate Defendant, must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who participate in the telemarketing of any good or service; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven (7) days of entry of this Order for current personnel. To all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which a Defendant delivered a copy of this Order, that Defendant must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this Order.

**XII. COMPLIANCE REPORTING**

**IT IS FURTHER ORDERED** that Defendants make timely submissions to the Commission:

A. Within 180 days after entry of this Order, each Defendant must submit a compliance report, sworn under penalty of perjury:

1. Each Defendant must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission may use to communicate with Defendant; (b) identify all of that Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant (which the Individual Defendant must describe if he knows or should know due to his own involvement); (d) describe in detail whether and how that Defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.
2. Additionally, each Individual Defendant must: (a) identify all telephone numbers and all physical, postal, email and Internet addresses, including all residences; (b) identify all business activities, including any business for which such Defendant performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest; and (c) describe in detail such Defendant's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.

B. For thirteen (13) years after entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in the following:

1. Each Defendant must report any change in: (a) any designated point of contact; or (b) the structure of any Corporate Defendant or any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.
2. Additionally, each Individual Defendant must report any change in: (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for which such Defendant performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity.

C. Each Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Defendant within fourteen (14) days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: \_\_\_\_\_” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission,

600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: *FTC v. Premier Precious Metals, Inc.*, Matter No. X120018.

### **XIII. RECORDKEEPING**

**IT IS FURTHER ORDERED** that Defendants must create certain records for thirteen (13) years after entry of the Order, and retain each such record for five (5) years. Specifically, each Corporate Defendant and Individual Defendant for any business that such Defendant, individually or collectively with any other Defendants, is a majority owner or controls directly or indirectly, must create and retain the following records:

- A. Accounting records showing the revenues from all goods or services sold;
- B. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;
- C. Records of all consumer complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response;
- D. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission; and
- E. A copy of each unique advertisement or other marketing material.

### **XIV. COMPLIANCE MONITORING**

**IT IS FURTHER ORDERED** that, for the purpose of monitoring Defendants' compliance with this Order, including the financial representations upon which part of the judgment was suspended and any failure to transfer any assets as required by this Order:

- A. Within fourteen (14) days of receipt of a written request from a representative of the Commission, each Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents, for inspection and copying. The Commission is also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, the Commission is authorized to communicate directly with each Defendant. Defendants must permit representatives of the Commission to interview any employee or other person affiliated with any Defendant who has agreed to such an interview. The person interviewed may have counsel present.


C. The Commission may use all other lawful means, including posing, through its representatives, as consumers, suppliers, or other individuals or entities, to Defendants or any individual or entity affiliated with Defendants, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

**XV. RETENTION OF JURISDICTION**

**IT IS FURTHER ORDERED** that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

The Clerk of the Court will **close** this case.

**Done and ordered**, in chambers

  
**ROBERT N. SCOLA, JR.**  
**UNITED STATES DISTRICT JUDGE**

**STIPULATED AND AGREED TO:**

**FOR THE PLAINTIFF:**



**BARBARA E. BOLTON**  
Special Florida Bar No. A5500848  
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Dated: 2/24/14

**Attorney for Plaintiff**  
**FEDERAL TRADE COMMISSION**

**FOR DEFENDANTS:**




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Dated: Nov. 26, 2013


**Attorney for Defendants**  
**PREMIER PRECIOUS METALS, INC.,**  
**RUSHMORE CONSULTING GROUP, INC.,**  
**PPM CREDIT, INC., and ANTHONY J. COLUMBO**




**DEFENDANTS:**

  
\_\_\_\_\_  
**ANTHONY J. COLUMBO, Individually**


Dated: 11/26/13

  
\_\_\_\_\_  
**ANTHONY J. COLUMBO as an Officer of  
Premier Precious Metals, Inc.**

Dated: 11/29/13

  
\_\_\_\_\_  
**ANTHONY J. COLUMBO as an Officer of  
Rushmore Consulting Group, Inc.**

Dated: 11/26/13

  
\_\_\_\_\_  
**ANTHONY J. COLUMBO as an Officer of  
PPM Credit, Inc.**

Dated: 11/26/13