

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK: IAS PART 11**

PRESENT: HON. JOAN MADDEN

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**THE PEOPLE OF THE STATE OF
NEW YORK, by ELIOT SPITZER,
Attorney General of the State of New York,**

Petitioners,

-against-

**SIMON PROPERTY GROUP, INC., and
SIMON PROPERTY GROUP, LP,**

Respondents.

**CONSENT ORDER
AND JUDGMENT**

Index No.: 400425/05

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The People of the State of New York, by their attorney, Eliot Spitzer, Attorney General of the State of New York, having commenced this special proceeding for an order and judgment pursuant to General Business Law (“GBL”) § 396-i and Executive Law § 63(12) granting the following relief: (1) permanently enjoining respondents from violating the foregoing statutes and from engaging in the illegal practices recited in the Verified Petition; (2) directing respondents to pay a civil penalty in the amount of \$1,000 for each violation of GBL § 396-i; and (3) awarding petitioners costs plus an additional allowance of \$2,000 against each respondent, pursuant to CPLR § 8303(a)(6); and

Upon reading and filing the Notice of Petition, dated February 2, 2005, the Verified Petition, dated February 2, 2005, with exhibits, and the matter having been adjourned to April 29, 2005 by a stipulation entered into by and between the parties; and

Petitioners and respondents having signed the annexed Stipulation and Consent,

consenting to the entry of this Order and Judgment;

NOW, upon motion of the Attorney General, attorney for petitioners herein, it hereby is:

ORDERED AND ADJUDGED that respondents, their employees, agents, successors, and assigns (hereafter "respondents") are immediately and permanently enjoined from violating GBL § 396-i(5)(b) by assessing, charging and/or collecting a monthly service fee in connection with any Simon Giftcard sold in New York, including, to New York residents via the Internet, on or after October 18, 2004, at any time prior to the thirteenth consecutive month of non-use of the card; provided, however, that if any such fees are charged to a card due to technological problems or errors and provided that the full amount of such fees charged are refunded promptly, respondents shall not be in violation of this Order and Judgment; and it further is

ORDERED AND ADJUDGED that, commencing 60 days after execution of the annexed Stipulation and Consent, respondents are permanently enjoined from publishing any advertising or promotional material in the State of New York, including any material posted or provided at the point of sale for the Simon Giftcard, that refers, in any manner, to a monthly service fee to be imposed at any time prior to the thirteenth consecutive month of non-use of the card; and it further is

ORDERED AND ADJUDGED that, no later than 15 days after execution of the annexed Stipulation and Consent, in all Internet advertising for the Simon Giftcard, respondents shall clearly and conspicuously disclose that for Simon Giftcards purchased at retail in New York or by New York residents via the Internet, no monthly service fee shall be imposed at any time prior to the thirteenth consecutive month of non-use of the card; and it further is

ORDERED AND ADJUDGED that, commencing 60 days after execution of the annexed

Stipulation and Consent, respondents are permanently enjoined from selling any Simon Giftcard at retail in New York, or to New York residents via the Internet if, on the card itself, (i) there is any reference made to a monthly service fee to be imposed at any time prior to the thirteenth consecutive month of non-use of the card, (ii) any fees assessed against the balance of the card, and/or any fees to replace a lost, stolen or destroyed card are not clearly and conspicuously disclosed; and it further is

ORDERED AND ADJUDGED that, within ten days of execution of the annexed Stipulation and Consent, respondents shall pay, by certified check, to the State of New York the sum of \$100,000 as and for a civil penalty, and the sum of \$25,000 as and for costs; and it further is

ORDERED AND ADJUDGED that nothing in this Order and Judgment shall deprive any person or entity from pursuing a private right of action or pursuing any defense to such action; and it further is

ORDERED AND ADJUDGED that this Court shall retain jurisdiction of this action for purposes of carrying out the terms of this Order and Judgment, or granting such further relief as the Court deems just and proper.

Dated:

ENTER

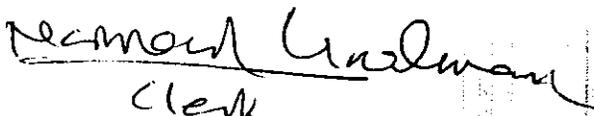
FILED
MAR 17 2005
NEW YORK
COUNTY CLERKS OFFICE



JOAN MADDEN
J.S.C. March 7, 2005

JOAN A. MADDEN
PART 11

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Clerk

**STIPULATION &
CONSENT**

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK**

-----X
**THE PEOPLE OF THE STATE OF
NEW YORK, by ELIOT SPITZER,
Attorney General of the State of New York,**

Petitioners,

**STIPULATION AND
CONSENT**

-against-

Index No.: **400425/05**

**SIMON PROPERTY GROUP, INC., and
SIMON PROPERTY GROUP, LP,**

Respondents.

-----X
IT HEREBY IS ACKNOWLEDGED, STIPULATED, CONSENTED TO AND
AGREED, by and between petitioners, the People of the State of New York, by their attorney,
Eliot Spitzer, Attorney General of the State of New York, and respondents, Simon Property
Group, Inc., and Simon Property Group, LP (hereinafter "respondents"):

1. Petitioners and respondents consent to entry of the annexed Consent Order and Judgment.
2. This Stipulation and Consent is entered into by respondents of their own free and voluntary act, with full knowledge and understanding of this proceeding and the obligations and duties imposed upon them by the annexed Order and Judgment.
3. Respondents enter into this Stipulation and Consent without any admission of wrongdoing.
4. The entry of the attached Order and Judgment shall not be deemed or construed as an approval by the Attorney General of any of the business activities of the respondents.

Dated: New York, New York
February , 2005

Simon Property Group, Inc.

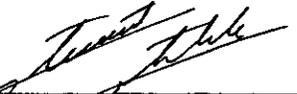
By:



Stewart A. Stockdale, Chief Marketing
Officer, Simon Property Group, Inc.

Simon Property Group, LP by
Simon Property Group, Inc., its General Partner

BY:



Stewart A. Stockdale, Chief Marketing
Officer, Simon Property Group, Inc.

ELIOT SPITZER
Attorney General of the
State of New York
Attorney for Petitioners



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BY:



THOMAS G. CONWAY
Bureau Chief
Consumer Frauds and Protection Bureau



GENEVA M. JOHNSON
Assistant Attorney General