IN THE UNITED STATES DISTICT COURT NORTHERN DISTRICT OF TEXAS **DALLAS DVISION**

PROVIDENT FINANCIAL, INC.,	§	
Assignee of SMI MARKETING, INC.,	§	
	§	
	§	
PLAINTIFF,	§	
·	§	
VS.	§	CIVIL ACTION NO. 07-CV-700-K
	§	
STRATEGIC ENERGY, L.L.C.,	§	
,	§	
	Š	
DEFENDANT1	Š	
	8	
SMI MARKETING, INC.	8	
	§	
INTERVENOR	§	
INTERVENIOR	3	

FINAL JUDGMENT

On September 29, 2009, this case was called for trial and all parties appeared by and through their attorneys of record and corporate representative, and announced ready to proceed. All parties waived a jury and proceeded to trial on the evidence and arguments to the Court. After the close of evidence and submission of post trial briefs as requested, the Court took the matter under submission and thereafter announced judgment as set forth below.

The Court finds that the Affiliate Sales Agreement, as amended (the "Agreement") requires Strategic Energy, L.L.C., ("Strategic") to pay commissions owed and otherwise payable to SMI Marketing, Inc., ("SMI") prior to December 15, 2006, including commissions on customers in default.

The Court finds that SMI validly assigned to Provident Financial, Inc., ("Provident") the right to receive commissions due under the Agreement.

The Court finds that Strategic withheld commissions due and owing in the amount of \$871,877.66.

The Court finds that SMI assigned to Provident commissions in the sum of \$818,366.95.

The Court further finds that the additional sum of \$53,510.71 withheld by Strategic was not assigned to Provident and remained payable to SMI.

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The Court further finds that Provident and SMI have both plead for prejudgment interest and are entitled to receive the same.

IT IS THEREFORE ORDERED ADJUDGED AND DECREED that Provident Financial, Inc., shall have and recover judgment against Strategic Energy, LLC, in the principal sum of \$818,366.95, together with prejudgment interest at five percent (5%) per annum through August 1, 2009, in the sum of \$111,964.93, and \$112.05 per diem from August 2, 2009 until the date of judgment.

IT IS FURTHER ORDERED ADJUDGED AND DECREED that SMI Marketing, Inc., shall have and recover judgment against Strategic Energy, LLC, in the principal sum of \$53,510.71, together with prejudgment interest at five percent (5%) per annum through August 1, 2009, in the sum of \$7,323.20, and \$7.33 per diem from August 2, 2009, until the date of iudgment.

IT IS FURTHER ORDERD that post-judgment interest shall accrue on all sums awarded herein at the rate of five percent (0.33%) per annum from the date of judgment until

Provident Financial, Inc. and SMI Marketing, Inc. shall recover their taxable costs of court from Strategic Energy, LLC.

SO ORDERED.

Dated: November 24, 2009.

UNITED STATES MAGISTRATE JUDGE

APPROVED AS TO FORM:

	/s/	
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	/s/	
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L.L.C, DEFENDANT		

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