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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

FEDERAL TRADE COMMISSION,  
  
Plaintiff,  
  
v.  
  
TATTO, INC., *et al.*,  
  
Defendants.

**Case No. CV 13-8912 DSF (FFMx)**  
  
***EX PARTE* TEMPORARY  
RESTRAINING ORDER WITH  
AN ASSET FREEZE AND  
OTHER EQUITABLE RELIEF,  
AND ORDER TO SHOW CAUSE  
WHY A PRELIMINARY  
INJUNCTION SHOULD NOT  
ISSUE**

Plaintiff Federal Trade Commission (“FTC” or “Commission”) has filed a Complaint for Injunctive and other Equitable Relief pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), and has moved for the issuance of a Temporary Restraining Order (“TRO”) pursuant to Rule 65(b) of the Federal Rules of Civil Procedure. This Court having considered the Complaint, the TRO Motion, and the memorandum, declarations and exhibits filed in support thereof, finds that:

1. The Court has jurisdiction over the subject matter of the case, and

1 there is good cause to believe it will have jurisdiction over all parties hereto;

2 2. There is good cause to believe that venue lies properly with this  
3 Court;

4 3. There is good cause to believe that Defendants Tatto, Inc., Bullroarer,  
5 Inc., Shaboom Media, LLC, Bune, LLC, Mobile Media Products, LLC, Chairman  
6 Ventures, LLC, Galactic Media, LLC, Virtus Media, LLC, Lin Miao, and Andrew  
7 Bachman (collectively “Defendants”) have engaged in and are likely to engage in  
8 acts or practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) and  
9 that Plaintiff therefore is likely to prevail on the merits of this action;

10 4. There is good cause to believe that consumers will suffer immediate  
11 and continuing harm unless Defendants are restrained and enjoined by Order of  
12 this Court;

13 5. Good cause exists for appointing a temporary receiver over the  
14 Corporate Defendants, ordering evidence preservation, freezing Defendants’  
15 assets, and permitting the FTC to take limited expedited discovery to identify any  
16 additional assets;

17 6. Weighing the equities and considering the FTC’s likelihood of  
18 ultimate success, a temporary restraining order with an asset freeze, limited  
19 expedited discovery as to the existence and location of assets, and other equitable  
20 relief is in the public interest; and

21 7. No security is required of any agency of the United States for issuance  
22 of a restraining order. Fed. R. Civ. P. 65(c).

23 **DEFINITIONS**

24 For the purposes of this Order, the following definitions shall apply:

25 1. “**Assets**” means any legal or equitable interest in, right to, or claim to, any  
26 and all real and personal property of Defendants, or held for the benefit of  
27 Defendants, wherever located, whether in the United States or abroad, including  
28 but not limited to chattel, goods, instruments, equipment, fixtures, general

1 intangibles, effects, leaseholds, contracts, mail or other deliveries, inventory,  
2 checks, notes, accounts, credits, receivables (as those terms are defined in the  
3 Uniform Commercial Code), shares of stock, futures, and all cash and currency,  
4 and trusts, including but not limited to any trust held for the benefit of any  
5 Defendant, any of the Individual Defendants' minor children, or any of the  
6 Individual Defendants' spouses, and shall include both existing assets and assets  
7 acquired after the date of entry of this Order.

8 2. **“Corporate Defendants”** means Tatto, Inc., Bullroarer, Inc., Shaboom  
9 Media, LLC, Bune, LLC, Mobile Media Products, LLC, Chairman Ventures, LLC,  
10 Galactic Media, LLC, Virtus Media, LLC, and their d/b/a's, successors, and  
11 assigns.

12 3. **“Defendants”** means all of the Individual Defendants and Corporate  
13 Defendants individually, collectively, or in any combination.

14 4. **“Document”** and **“Electronically Stored Information”** are synonymous in  
15 meaning and equal in scope to the usage of the terms in Rule 34(a) of the Federal  
16 Rules of Civil Procedure and include but are not limited to:

17 a. The original or a true copy of any written, typed, printed,  
18 electronically stored, transcribed, taped, recorded, filmed, punched, or  
19 graphic matter or other data compilations of any kind, including, but  
20 not limited to, letters, email or other correspondence, messages,  
21 memoranda, interoffice communications, notes, reports, summaries,  
22 manuals, magnetic tapes or discs, tabulations, books, records, checks,  
23 invoices, work papers, journals, ledgers, statements, returns, reports,  
24 schedules, or files; and

25 b. Any electronically stored information stored on any server,  
26 Blackberrys or any type of mobile device, flash drives, personal  
27 digital assistants (“PDAs”), desktop personal computer and  
28 workstations, laptops, notebooks, and other portable computers, or

1 other electronic storage media, whether assigned to individuals or in  
2 pools of computers available for shared use, or personally owned but  
3 used for work-related purposes; backup disks and tapes, archive disks  
4 and tapes, and other forms of offline storage, whether stored onsite  
5 with the computer used to generate them, stored offsite in another  
6 company facility, or stored, hosted, or otherwise maintained offsite by  
7 a third-party; and computers and related offline storage used by  
8 Defendants or Defendants' participating associates, which may  
9 include persons who are not employees of the company or who do not  
10 work on company premises.

11 5. **“Electronic Data Host”** means any person or entity in the business of  
12 storing, hosting, or otherwise maintaining electronically stored information.

13 6. **“Financial Institution”** means any bank, savings and loan institution, credit  
14 union, or any financial depository of any kind, including, but not limited to, any  
15 brokerage house, trustee, broker-dealer, escrow agent, title company, commodity  
16 trading company, or precious metal dealer.

17 7. **“Individual Defendants”** means Lin Miao and Andrew Bachman.

18 8. **“Person”** means any individual, group, unincorporated association, limited  
19 or general partnership, corporation, or other business entity.

20 **ORDER**

21 **I. PROHIBITED PRACTICES**

22 **IT IS HEREBY ORDERED** that Defendants, directly or through any  
23 corporation, partnership, subsidiary, division, trade name, or other device, and their  
24 officers, agents, servants, employees, attorneys, and those persons or entities in  
25 active concert or participation with them who receive actual notice of this Order by  
26 personal service or otherwise, are temporarily restrained and enjoined from placing  
27 or assisting others in placing any charge on a consumer's telephone bill, or from  
28 representing or assisting others in representing, directly or indirectly, expressly or

1 by implication, that a consumer is obligated to pay any charge on a telephone bill,  
2 unless Defendants have obtained the consumer's express informed consent to the  
3 charge and Defendants have made and maintained a record of the consent.

4 **II. PROHIBITION REGARDING CONSUMER INFORMATION**

5 **IT IS FURTHER ORDERED** that Defendants, directly or through any  
6 corporation, partnership, subsidiary, division, trade name, or other device, and their  
7 officers, agents, servants, employees, and attorneys, and those persons or entities in  
8 active concert or participation with them who receive actual notice of this Order by  
9 personal service or otherwise, are temporarily restrained and enjoined from selling,  
10 transferring, or disclosing consumer information, including the name, address,  
11 telephone number, email address, social security number, other identifying  
12 information, or any other data that enables access to a consumer's account  
13 (including, but not limited to, a credit card, bank account, telephone billing account  
14 or other financial account), of any person or entity, which Defendants obtained  
15 prior to entry of this Order in connection with Defendants' services.

16 **III. ASSET FREEZE**

17 **IT IS FURTHER ORDERED** that Defendants and their officers, agents,  
18 servants, employees, and attorneys, and all other persons or entities in active  
19 concert or participation with any of them who receive actual notice of this Order  
20 by personal service or otherwise, each are hereby temporarily restrained and  
21 enjoined from directly or indirectly:

22 A. Selling, liquidating, assigning, transferring, converting, loaning,  
23 hypothecating, disbursing, gifting, conveying, encumbering, pledging, concealing,  
24 dissipating, spending, withdrawing, granting a lien or security interest or other  
25 interest in, or otherwise disposing of any funds, real or personal property,  
26 contracts, consumer lists or other assets or any interest therein, wherever located,  
27 including any assets outside the territorial United States that are:

- 28 1. In the actual or constructive possession of any Defendant;

1           2.     Owned or controlled by, or held, in whole or in part for the  
2 benefit of, or subject to access by, or belonging to, any Defendant; or

3           3.     In the actual or constructive possession of, or owned or  
4 controlled by, or subject to access by, or belong to, any corporation, partnership,  
5 trust or other entity directly or indirectly owned, managed, or under the control of  
6 any Defendant;

7           B.     Opening, or causing to be opened, any safe deposit boxes titled in the  
8 name of or subject to access by any Defendant;

9           C.     Incurring charges on any credit card, stored value card, debit card, or  
10 charge card issued in the name, singly or jointly, of any Defendant or any other  
11 entity directly or indirectly owned, managed, or controlled by any Defendant;

12          D.     Obtaining a personal or secured loan; and

13          E.     Cashing any checks from consumers, clients, or customers of any  
14 Defendant.

15           **IT IS FURTHER ORDERED** that the funds, property, and assets affected  
16 by this Section shall include (a) all assets of each Defendant as of the time this  
17 Order is entered, and (b) those assets obtained or received after entry of this Order  
18 that are derived from the actions alleged in Plaintiff's Complaint.

19 **IV.   RETENTION OF ASSETS AND DOCUMENTS BY THIRD PARTIES**

20           **IT IS FURTHER ORDERED** that, pending determination of the FTC's  
21 request for a preliminary injunction, any financial or brokerage institution,  
22 business entity, electronic data host, or person served with a copy of this Order that  
23 holds, controls, or maintains custody of any account, document, electronically  
24 stored information, or asset of, on behalf of, in the name of, for the benefit of,  
25 subject to withdrawal by, subject to access or use by, or under the signatory power  
26 of any Defendant or other party subject to Section III above, or has held,  
27 controlled, or maintained any such account, document, electronically stored  
28 information, or asset, shall:

1           A.     Hold, preserve, and retain within such entity's or person's control, and  
2 prohibit the withdrawal, removal, alteration, assignment, transfer, pledge,  
3 hypothecation, encumbrance, disbursement, dissipation, conversion, sale,  
4 liquidation, or other disposal of such account, document, electronically stored  
5 information, or asset held by or under such entity's or person's control, except as  
6 directed by further order of the Court, or as directed in writing by the Receiver, as  
7 defined in Section IX, regarding accounts, documents, or assets held in the name of  
8 or benefit of Corporate Defendants;

9           B.     Provide the Receiver or the Receiver's agents access to electronically  
10 stored information stored, hosted, or otherwise maintained on behalf of Corporate  
11 Defendants for forensic imaging;

12           C.     Deny access to any safe deposit boxes that are either titled in the  
13 name, individually or jointly, or subject to access by, any Defendant or other party  
14 subject to Section III above;

15           D.     Provide to counsel for the FTC and the Receiver, within five (5)  
16 business days, a sworn statement setting forth:

17               1.     The identification of each account or asset titled in the name,  
18 individually or jointly, or held on behalf of or for the benefit of, subject to  
19 withdrawal by, subject to access or use by, or under the signatory power of any  
20 Defendant or other party subject to Section III above, whether in whole or in part;

21               2.     The balance of each such account, or a description of the nature  
22 and value of such asset, as of the close of business on the day on which this Order  
23 is served;

24               3.     The identification of any safe deposit box that is either titled in  
25 the name of, individually or jointly, or is otherwise subject to access or control by,  
26 any Defendant or other party subject to Section III above, whether in whole or in  
27 part; and

28               4.     If the account, safe deposit box, or other asset has been closed

1 or removed, the date closed or removed, the balance on said date, and the name or  
2 the person or entity to whom such account or other asset was remitted;

3 E. Provide counsel for the FTC and the Receiver, within three (3)  
4 business days after being served with a request, copies of all documents pertaining  
5 to such account or asset, including but not limited to originals or copies of account  
6 applications, account statements, signature cards, checks, drafts, deposit tickets,  
7 transfers to and from the accounts, all other debit and credit instruments or slips,  
8 currency transaction reports, 1099 forms, and safe deposit box logs; provided that  
9 such institution or custodian may charge a reasonable fee; and

10 F. Cooperate with all reasonable requests of the Receiver relating to this  
11 Order's implementation.

12 **IT IS FURTHER ORDERED** that the accounts subject to this provision  
13 include existing assets and assets deposited after the effective date of this Order.  
14 This Section shall not prohibit transfers in accordance with any provision of this  
15 Order, or any further order of the Court.

16 **V. FINANCIAL STATEMENTS AND ACCOUNTING**

17 **IT IS FURTHER ORDERED** that each Defendant, within three (3)  
18 business days of service of this Order, shall prepare and deliver to counsel for the  
19 FTC:

20 A. For each Individual Defendant, a completed financial statement  
21 accurate as of the date of service of this Order upon such Defendant (unless  
22 otherwise agreed upon with FTC counsel) in the form of Attachment A to this  
23 Order captioned "Financial Statement for Individual Defendant."

24 B. For each Corporate Defendant, a completed financial statement  
25 accurate as of the date of service of this Order upon such Defendant (unless  
26 otherwise agreed upon with FTC counsel) in the form of Attachment B to this  
27 Order captioned "Financial Statement for Business Entity Defendant."

28 C. For each Defendant, a completed statement, verified under oath, of all



1 payments, transfers or assignments of funds, assets, or property worth \$1,000 or  
2 more since January 1, 2011. Such statement shall include: (a) the amount  
3 transferred or assigned; (b) the name of each transferee or assignee; (c) the date of  
4 the transfer or assignment; and (d) the type and amount of consideration paid the  
5 Defendant. Each statement shall specify the name and address of each financial  
6 institution and brokerage firm at which the Defendant has accounts or safe deposit  
7 boxes. Said statements shall include assets held in foreign as well as domestic  
8 accounts.

9 **VI. CONSUMER CREDIT REPORTS**

10 **IT IS FURTHER ORDERED** that pursuant to Section 604(1) of the Fair  
11 Credit Reporting Act, 15 U.S.C. § 1681b(1), any consumer reporting agency may  
12 furnish to the FTC a consumer report concerning any Defendant.

13 **VII. REPATRIATION OF FOREIGN ASSETS**

14 **IT IS FURTHER ORDERED** that, within five (5) business days following  
15 the service of this Order, each Defendant shall:

16 A. Provide counsel for the FTC and the Receiver with a full accounting  
17 of all assets, accounts, funds, and documents outside of the territory of the United  
18 States that are held either: (1) by Defendant; (2) for Defendant's benefit; (3) in  
19 trust by or for Defendant, individually or jointly; or (4) under Defendant's direct or  
20 indirect control, individually or jointly;

21 B. Transfer to the territory of the United States all assets, accounts,  
22 funds, and documents in foreign countries held either: (1) by Defendant; (2) for  
23 Defendant's benefit; (3) in trust by or for Defendant, individually or jointly; or (4)  
24 under Defendant's direct or indirect control, individually or jointly;

25 C. Hold and retain all repatriated assets, accounts, funds, and documents,  
26 and prevent any transfer, disposition, or dissipation whatsoever of any such assets,  
27 accounts, funds, or documents except as by this Order; and

28 D. Provide the FTC access to all records of accounts or assets of the

1 Defendant held by financial institutions located outside the territorial United States  
2 by signing the Consent to Release of Financial Records attached to this Order at  
3 Attachment C.

4 **VIII. NONINTERFERENCE WITH REPATRIATION**

5 **IT IS FURTHER ORDERED** that Defendants are hereby temporarily  
6 restrained and enjoined from taking any action, directly or indirectly, that may  
7 result in the encumbrance or dissipation of foreign assets, or in the hindrance of the  
8 repatriation required by the preceding Section VII of this Order, including, but not  
9 limited to:

10 A. Sending any statement, letter, fax, email or wire transmission, or  
11 telephoning or engaging in any other act, directly or indirectly, that results in a  
12 determination by a foreign trustee or other entity that a “duress” event has occurred  
13 under the terms of a foreign trust agreement until such time that all assets have  
14 been fully repatriated pursuant to Section VII of this Order; or

15 B. Notifying any trustee, protector, or other agent of any foreign trust or  
16 other related entities of either the existence of this Order, or of the fact that  
17 repatriation is required pursuant to a court order, until such time that all assets have  
18 been fully repatriated pursuant to Section VII of this Order.

19 **IX. APPOINTMENT OF TEMPORARY RECEIVER**

20 **IT IS FURTHER ORDERED** that Thomas W. McNamara is appointed  
21 Temporary Receiver (“Receiver”) for the business activities of Corporate  
22 Defendants with the full power of an equity receiver. The Receiver shall be the  
23 agent of this Court and solely the agent of this Court in acting as Receiver under  
24 this Order. The Receiver shall be accountable directly to this Court. The Receiver  
25 shall comply with any laws and Local Rules of this Court governing receivers.

26 **X. DUTIES OF RECEIVER**

27 **IT IS FURTHER ORDERED** that the Receiver is directed and authorized  
28 to accomplish the following:

1           A.     Assume full control of Corporate Defendants by removing, as the  
2 Receiver deems necessary or advisable, any director, officer, independent  
3 contractor, employee, or agent of any Corporate Defendant, including any named  
4 Defendant, from control of, management of, or participation in, the affairs of  
5 Corporate Defendant;

6           B.     Take exclusive custody, control, and possession of all assets,  
7 documents, and electronically stored information of, or in the possession, custody,  
8 or under the control of, Corporate Defendants, wherever situated. The Receiver  
9 shall have full power to divert mail and to sue for, collect, receive, take in  
10 possession, hold, and manage all assets and documents of Corporate Defendants  
11 and other persons or entities whose interests are now held by or under the  
12 direction, possession, custody, or control of Corporate Defendants. Provided,  
13 however, that the Receiver shall not attempt to collect or receive any amount from  
14 a consumer if the Receiver believes the consumer was a victim of the unlawful  
15 conduct alleged in the complaint in this matter;

16           C.     Take all steps necessary to secure the business premises of Corporate  
17 Defendants. Such steps may include, but are not limited to, the following, as the  
18 Receiver deems necessary or advisable:

- 19                 1.     Serving and filing this Order;
- 20                 2.     Completing a written inventory of all assets of Corporate  
21 Defendants;
- 22                 3.     Obtaining pertinent information from all employees and other  
23 agents of Corporate Defendant, including, but not limited to, the name, home  
24 address, social security number, job description, method of compensation, and all  
25 accrued and unpaid commissions and compensation of each such employee or  
26 agent, and all computer hardware and software passwords;
- 27                 4.     Videotaping all portions of the location;
- 28                 5.     Securing the location by changing the locks and disconnecting

1 any computer modems or other means of access to the computer or other records  
2 maintained at that location;

3           6.     Requiring any persons present on the premises at the time this  
4 Order is served to leave the premises, to provide the Receiver with proof of  
5 identification, or to demonstrate to the satisfaction of the Receiver that such  
6 persons are not removing from the premises documents or assets of Corporate  
7 Defendants; and

8           7.     Requiring all employees, independent contractors, and  
9 consultants of Corporate Defendants to complete a Questionnaire submitted by the  
10 Receiver;

11           D.     Conserve, hold, and manage all assets of Corporate Defendants, and  
12 perform all acts necessary or advisable to preserve the value of those assets, in  
13 order to prevent any irreparable loss, damage, or injury to consumers or to  
14 creditors of Corporate Defendants, including, but not limited to, obtaining an  
15 accounting of the assets and preventing transfer, withdrawal, or misapplication of  
16 assets;

17           E.     Enter into contracts and purchase insurance as the Receiver deems to  
18 be advisable or necessary;

19           F.     Prevent the inequitable distribution of assets and determine, adjust,  
20 and protect the interests of consumers and creditors who have transacted business  
21 with Corporate Defendants;

22           G.     Manage and administer the business of Corporate Defendants until  
23 further order of this Court by performing all incidental acts that the Receiver  
24 deems to be advisable or necessary, which includes retaining, hiring, or dismissing  
25 any employees, independent contractors, or agents;

26           H.     Choose, engage, and employ attorneys, accountants, appraisers, and  
27 other independent contractors and technical specialists, as the Receiver deems  
28 advisable or necessary in the performance of duties and responsibilities under the

1 authority granted by this Order;

2 I. Make payments and disbursements from the Receivership estate that  
3 are necessary or advisable for carrying out the directions of, or exercising the  
4 authority granted by, this Order. The Receiver shall apply to the Court for prior  
5 approval of any payment of any debt or obligation incurred by Corporate  
6 Defendants prior to the date of entry of this Order, except payments that the  
7 Receiver deems necessary or advisable to secure assets of Corporate Defendants,  
8 such as rental payments;

9 J. Determine and implement the manner in which Corporate Defendants  
10 will comply with, and prevent violations of, this Order and all other applicable  
11 laws, including, but not limited to, obtaining consumers' express agreement to the  
12 placement of charges on the consumers' telephone bills prior to billing consumers  
13 and making and maintain records of the agreement. Such verification may include  
14 contacting Corporate Defendants' existing consumers, via text message or  
15 otherwise, to determine whether such consumers (a) authorized such billing, and  
16 (b) agree to continue such billing.

17 K. Institute, compromise, adjust, appear in, intervene in, or become party  
18 to such actions or proceedings in state, federal, or foreign courts that the Receiver  
19 deems necessary and advisable to preserve or recover the assets of Corporate  
20 Defendants, or that the Receiver deems necessary and advisable to carry out the  
21 Receiver's mandate under this Order;

22 L. Defend, compromise, adjust, or otherwise dispose of any or all actions  
23 or proceedings instituted in the past or in the future against the Receiver in his role  
24 as Receiver, or against Corporate Defendants, that the Receiver deems necessary  
25 and advisable to preserve the assets of Corporate Defendants or that the Receiver  
26 deems necessary and advisable to carry out the Receiver's mandate under this  
27 Order;

28 M. Continue and conduct the business of Corporate Defendants in such

1 manner, to such extent, and for such duration as the Receiver may in good faith  
2 deem to be necessary or appropriate to operate the business profitably and  
3 lawfully, if at all; provided, however, that the continuation and conduct of the  
4 business shall be conditioned upon the Receiver's good faith determination that the  
5 businesses can be lawfully operated at a profit using the assets of the receivership  
6 estate;

7 N. Take depositions and issue subpoenas to obtain documents and  
8 records pertaining to the receivership estate and compliance with this Order.  
9 Subpoenas may be served by agents or attorneys of the Receiver and by agents of  
10 any process server retained by the Receiver;

11 O. Open one or more bank accounts in the Central District of California  
12 as designated depositories for funds of Corporate Defendants. The Receiver shall  
13 deposit all funds of Corporate Defendants in such a designated account and shall  
14 make all payments and disbursements from the receivership estate from such  
15 account(s);

16 P. Maintain accurate records of all receipts and expenditures that he  
17 makes as Receiver;

18 Q. Upon request by any party, make available to that party within three  
19 calendar days copies of any documents obtained pursuant to the Receivership;

20 R. Cooperate with reasonable requests for information or assistance from  
21 any state or federal law enforcement agency.

22 **IT IS FURTHER ORDERED** that the Receiver will be responsible for  
23 maintaining the chain of custody of all of Corporate Defendants' records in his  
24 possession, pursuant to procedures to be established in writing with the approval of  
25 the FTC.

26 **XI. COOPERATION WITH RECEIVER**

27 **IT IS FURTHER ORDERED** that:

28 A. Defendants, and their officers, agents, directors, servants, employees,

1 salespersons, independent contractors, attorneys, corporations, subsidiaries,  
2 affiliates, successors, and assigns, all other persons or entities in active concert or  
3 participation with them, who receive actual notice of this Order by personal service  
4 or otherwise, whether acting directly or through any trust, corporation, subsidiary,  
5 division, or other device, or any of them, shall fully cooperate with and assist the  
6 Receiver. Defendants' cooperation and assistance shall include, but not be limited  
7 to:

8           1. Providing any information to the Receiver that the Receiver  
9 deems necessary to exercising the authority and discharging the responsibilities of  
10 the Receiver under this Order, including but not limited to allowing the Receiver to  
11 inspect documents and assets and to partition office space;

12           2. Providing any password and executing any documents required  
13 to access any computer or electronic files in any medium, including but not limited  
14 to electronically stored information stored, hosted or otherwise maintained by an  
15 electronic data host; and

16           3. Advising all persons who owe money to the Corporate  
17 Defendants that all debts should be paid directly to the Receiver.

18           B. Defendants and their officers, directors, agents, servants, employees,  
19 attorneys, successors, assigns, and all other persons or entities directly or  
20 indirectly, in whole or in part, under their control, and all other persons in active  
21 concert or participation with them who receive actual notice of this Order by  
22 personal service or otherwise, are hereby temporarily restrained and enjoined from  
23 directly or indirectly:

24           1. Transacting any of the business of the Corporate Defendants;

25           2. Destroying, secreting, erasing, mutilating, defacing, concealing,  
26 altering, transferring or otherwise disposing of, in any manner, directly or  
27 indirectly, any documents, electronically stored information, or equipment of  
28 Corporate Defendants, including but not limited to contracts, agreements,

1 consumer files, consumer lists, consumer addresses and telephone numbers,  
2 correspondence, advertisements, brochures, sales material, sales presentations,  
3 documents evidencing or referring to Corporate Defendants' services, debt  
4 collection training materials, debt collection scripts, data, computer tapes, disks, or  
5 other computerized records, books, written or printed records, handwritten notes,  
6 telephone or SMS logs, web logs, "verification" or "compliance" tapes or other  
7 audio or video tape recordings, receipt books, invoices, postal receipts, ledgers,  
8 personal and business canceled checks and check registers, bank statements,  
9 appointment books, copies of federal, state or local business or personal income or  
10 property tax returns, photographs, mobile devices, electronic storage media,  
11 accessories, and any other documents, records or equipment of any kind that relate  
12 to the business practices or finances of Corporate Defendants or any other entity  
13 directly or indirectly under the control of Corporate Defendants;

14 3. Transferring, receiving, altering, selling, encumbering,  
15 pledging, assigning, liquidating, or otherwise disposing of any assets owned,  
16 controlled, or in the possession or custody of, or in which an interest is held or  
17 claimed by, the Corporate Defendants, or the Receiver;

18 4. Excusing debts owed to the Corporate Defendants;

19 5. Failing to notify the Receiver of any asset, including accounts,  
20 of Corporate Defendants held in any name other than the name of any Corporate  
21 Defendant, or by any person or entity other than any Corporate Defendant, or  
22 failing to provide any assistance or information requested by the Receiver in  
23 connection with obtaining possession, custody, or control of such assets;

24 6. Failing to create and maintain books, records, and accounts  
25 which, in reasonable detail, accurately, fairly, and completely reflect the incomes,  
26 assets, disbursements, transactions and use of monies by the Corporate Defendant  
27 or any other entity directly or indirectly under the control of the Corporate  
28 Defendant;



1           7.     Doing any act or refraining from any act whatsoever to interfere  
2 with the Receiver's taking custody, control, possession, or managing of the assets  
3 or documents subject to this Receivership; or to harass or to interfere with the  
4 Receiver in any way; or to interfere in any manner with the exclusive jurisdiction  
5 of this Court over the assets or documents of Corporate Defendants; or to refuse to  
6 cooperate with the Receiver or the Receiver's duly authorized agents in the  
7 exercise of their duties or authority under any Order of this Court; and

8           8.     Filing, or causing to be filed, any petition on behalf of any  
9 Corporate Defendant for relief under the United States Bankruptcy Code, 11  
10 U.S.C. § 101 *et seq.*, without prior permission from this Court.

11 **XII. DELIVERY OF RECEIVERSHIP PROPERTY**

12           **IT IS FURTHER ORDERED** that immediately upon service of this Order  
13 upon them or upon their otherwise obtaining actual knowledge of this Order, or  
14 within a period permitted by the Receiver, Defendants and their officers, agents,  
15 servants, employees, and attorneys, and all other persons or entities in active  
16 concert or participation with any of them who receive actual notice of this Order  
17 by personal service or otherwise shall transfer or deliver access to, possession,  
18 custody, and control of the following to the Receiver:

19           A.     All assets of Corporate Defendants;

20           B.     All documents and electronically stored information of Corporate  
21 Defendants, including, but not limited to, books and records of accounts, all  
22 financial and accounting records, balance sheets, income statements, bank records  
23 (including monthly statements, canceled checks, records of wire transfers, records  
24 of ACH transactions, and check registers), client or customer lists, title documents  
25 and other papers;

26           C.     All assets belonging to members of the public now held by Corporate  
27 Defendants;

28           D.     All keys, computer and other passwords, entry codes, combinations to

1 locks required to open or gain or secure access to any assets or documents of  
2 Corporate Defendants, wherever located, including, but not limited to, access to  
3 their business premises, means of communication, accounts, computer systems, or  
4 other property; and

5 E. Information identifying the accounts, employees, properties, or other  
6 assets or obligations of Corporate Defendants.

7 **IT IS FURTHER ORDERED** that, in the event any person or entity fails to  
8 deliver or transfer immediately any asset or otherwise fails to comply with any  
9 provision of this Section, the Receiver may file *ex parte* with the Court an  
10 Affidavit of Non-Compliance regarding the failure. Upon filing of the affidavit,  
11 the Court may authorize, without additional process or demand, Writs of  
12 Possession or Sequestration or other equitable writs requested by the Receiver.  
13 The writs shall authorize and direct the United States Marshal or any sheriff or  
14 deputy sheriff of any county (pursuant to Fed. R. Civ. P. 4(c)(1)) to seize the asset,  
15 document, or other thing and to deliver it to the Receiver.

16 **XIII. COMPENSATION FOR RECEIVER**

17 **IT IS FURTHER ORDERED** that the Receiver and all personnel hired by  
18 the Receiver as herein authorized, including counsel to the Receiver and  
19 accountants, are entitled to reasonable compensation for the performance of duties  
20 pursuant to this Order, and for the cost of actual out-of-pocket expenses incurred  
21 by them, from the assets now held by or in the possession or control of, or which  
22 may be received by, the Corporate Defendants. The Receiver shall file with the  
23 Court and serve on the parties periodic requests for the payment of such reasonable  
24 compensation, with the first such request filed no more than sixty (60) days after  
25 the date of this Order. The Receiver shall not increase the hourly rates used as the  
26 bases for such fee applications without prior approval of the Court.

27 **XIV. RECEIVER'S REPORTS**

28 **IT IS FURTHER ORDERED** that the Receiver shall report to this Court

1 on or before the date set for the hearing to Show Cause regarding the Preliminary  
2 Injunction, regarding: (1) the steps taken by the Receiver to implement the terms  
3 of this Order; (2) the value of all liquidated and unliquidated assets of Corporate  
4 Defendants; (3) the sum of all liabilities of Corporate Defendants; (4) the steps the  
5 Receiver intends to take in the future to: (a) prevent any diminution in the value of  
6 assets of Corporate Defendants, (b) pursue receivership assets from third parties,  
7 and (c) adjust the liabilities of Corporate Defendants, if appropriate; (5) the  
8 Receiver's assessment of whether the business can be operated in compliance with  
9 this Order; and (6) any other matters which the Receiver believes should be  
10 brought to the Court's attention. *Provided, however*, if any of the required  
11 information would hinder the Receiver's ability to pursue receivership assets, the  
12 portions of the Receiver's report containing such information may be filed under  
13 seal and not served on the parties.

#### 14 **XV. RECEIVER'S BOND**

15 **IT IS FURTHER ORDERED** that the Receiver shall file with the Clerk of  
16 this Court a bond in the sum of \$5,000.00 with sureties to be approved by the  
17 Court, conditioned that the Receiver will well and truly perform the duties of the  
18 office and abide by and perform all acts the Court directs.

#### 19 **XVI. STAY OF ACTIONS**

20 **IT IS FURTHER ORDERED** that except by leave of this Court, during  
21 pendency of the Receivership ordered herein, Defendants and all customers,  
22 principals, investors, creditors, stockholders, lessors, and other persons seeking to  
23 establish or enforce any claim, right, or interest against or on behalf of Corporate  
24 Defendants, and all others acting for or on behalf of such persons, including  
25 attorneys, trustees, agents, sheriffs, constables, marshals, and other officers and  
26 their deputies, and their respective attorneys, servants, agents, and employees shall  
27 be and are hereby stayed from:

28 A. Commencing, prosecuting, continuing, entering, or enforcing any suit

1 or proceeding, except that such actions may be filed to toll any applicable statute of  
2 limitations;

3 B. Accelerating the due date of any obligation or claimed obligation;  
4 filing or enforcing any lien; taking or attempting to take possession, custody, or  
5 control of any asset; attempting to foreclose, forfeit, alter, or terminate any interest  
6 in any asset, whether such acts are part of a judicial proceeding, are acts of self-  
7 help, or otherwise;

8 C. Executing, issuing, serving, or causing the execution, issuance or  
9 service of, any legal process, including, but not limited to, attachments,  
10 garnishments, subpoenas, writs of replevin, writs of execution, or any other form  
11 of process whether specified in this Order or not; or

12 D. Doing any act or thing whatsoever to interfere with the Receiver  
13 taking custody, control, possession, or management of the assets or documents  
14 subject to this Receivership, or to harass or interfere with the Receiver in any way,  
15 or to interfere in any manner with the exclusive jurisdiction of this Court over the  
16 assets or documents of Corporate Defendants;

17 E. This Section does not stay:

18 1. The commencement or continuation of a criminal action or  
19 proceeding;

20 2. The commencement or continuation of an action or proceeding  
21 by a governmental unit to enforce such governmental unit's police or regulatory  
22 power;

23 3. The enforcement of a judgment, other than a money judgment,  
24 obtained in an action or proceeding by a governmental unit to enforce such  
25 governmental unit's police or regulatory power; or

26 4. The issuance to any Corporate Defendant of a notice of tax  
27 deficiency; and

28 F. Except as otherwise provided in this Order, all persons and entities in

1 need of documentation from the Receiver shall in all instances first attempt to  
2 secure such information by submitting a formal written request to the Receiver,  
3 and, if such request has not been responded to within thirty (30) days of receipt by  
4 the Receiver, any such person or entity may thereafter seek an Order of this Court  
5 with regard to the relief requested.

6 **XVII. PRESERVATION OF RECORDS AND TANGIBLE THINGS**

7 **IT IS FURTHER ORDERED** that Defendants, directly or through any  
8 corporation, partnership, subsidiary, division, trade name, or other device, and their  
9 officers, agents, servants, employees, and attorneys, and those persons or entities in  
10 active concert or participation with them who receive actual notice of this Order by  
11 personal service or otherwise, are temporarily enjoined from destroying, erasing,  
12 mutilating, concealing, altering, transferring, or otherwise disposing of, in any  
13 manner, directly or indirectly, any documents or records that relate to the business  
14 practices, or business or personal finances, of Defendants, or an entity directly or  
15 indirectly under the control of Defendants.

16 **XVIII. LIMITED EXPEDITED DISCOVERY**

17 **IT IS FURTHER ORDERED** that the FTC is granted leave to conduct  
18 certain expedited discovery, and that, commencing with the time and date of this  
19 Order, in lieu of the time periods, notice provisions, and other requirements of  
20 Rules 26, 30, 34, and 45 of the Federal Rules of Civil Procedure, expedited  
21 discovery as to parties and non-parties shall proceed as follows:

22 A. The FTC may serve interrogatories for the purpose of discovering:  
23 (1) the nature, location, status, and extent of assets of Defendants or their affiliates  
24 or subsidiaries; (2) the nature and location of documents and business records of  
25 Defendants or their affiliates or subsidiaries; and (3) compliance with this Order.  
26 Defendants shall respond within five (5) calendar days after the FTC serves such  
27 interrogatories. Provided that, notwithstanding Federal Rule of Civil Procedure  
28 33(a)(1), this Subsection shall not preclude any future interrogatories by the FTC.

1           B.     The FTC may, upon five (5) calendar days notice, including through  
2 the use of a Rule 45 Subpoena, demand the production of documents from any  
3 person or entity, whether or not a defendant, relating to: (1) the nature, location,  
4 status, and extent of assets of Defendants or their affiliates or subsidiaries; (2) the  
5 nature and location of documents and business records of Defendants or their  
6 affiliates or subsidiaries; and (3) compliance with this Order. Provided that two (2)  
7 calendar days notice shall be deemed sufficient for the production of any such  
8 documents that are maintained or stored only as electronic data.

9           C.     The FTC is granted leave to subpoena documents immediately from  
10 any financial institution, account custodian, or other entity or person that holds,  
11 controls, or maintains custody of any account or asset of any Defendant, or has  
12 held, controlled or maintained custody of any account or asset of any Defendant  
13 concerning the nature, location, status, and extent of Defendants' assets, and  
14 compliance with this Order, and such financial institution, account custodian or  
15 other entity shall respond to such subpoena within five (5) business days after  
16 service.

17           For purposes of discovery upon a Defendant pursuant to this Section, service  
18 shall be sufficient if made by facsimile, email, or by overnight courier.

19 **XIX. DEFENDANTS' DUTY TO DISTRIBUTE ORDER**

20           **IT IS FURTHER ORDERED** that Defendants shall immediately provide a  
21 copy of this Order to each affiliate, subsidiary, division, sales entity, successor,  
22 assign, officer, director, employee, independent contractor, client company,  
23 electronic data host, agent, attorney, spouse, and representative of Defendants and  
24 shall, within three (3) calendar days from the date of entry of this Order, provide  
25 counsel for the FTC with a sworn statement that: (1) confirms that Defendants  
26 have provided copies of the Order as required by this Section and (2) lists the  
27 names and addresses of each entity or person to whom Defendants provided a copy  
28 of the Order. Furthermore, Defendants shall not take any action that would

1 encourage officers, agents, directors, employees, salespersons, independent  
2 contractors, attorneys, subsidiaries, affiliates, successors, assigns, or other persons  
3 or entities in active concert or participation with Defendants to disregard this  
4 Order.

5 **XX. DURATION OF TEMPORARY RESTRAINING ORDER**

6 **IT IS FURTHER ORDERED** that the Temporary Restraining Order  
7 granted herein shall expire on December 19, 2013, at 12:00 o'clock p.m., unless  
8 within such time, the Order, for good cause shown, is extended with the consent of  
9 the parties, or unless it is further extended pursuant to Federal Rule of Civil  
10 Procedure 65.

11 **XXI. ORDER TO SHOW CAUSE REGARDING PRELIMINARY**  
12 **INJUNCTION**

13 **IT IS FURTHER ORDERED** that, pursuant to Federal Rule of Civil  
14 Procedure 65(b), the Defendants shall appear before this Court on December 18,  
15 2013, at 1:30 p.m., to show cause, if there is any, why this Court should not enter a  
16 preliminary injunction enjoining the violations of law alleged in the FTC's  
17 Complaint, continuing the freeze of their assets, and imposing such additional  
18 relief as may be appropriate.

19 **XXII. SERVICE OF PLEADINGS, EVIDENCE, WITNESS LISTS**

20 **IT IS FURTHER ORDERED** that:

21 A. Defendants shall file any answering affidavits, pleadings, or legal  
22 memoranda with the Court and serve the same on counsel for the FTC no later than  
23 December 12, 2013. The FTC may file responsive or supplemental pleadings,  
24 materials, affidavits, or memoranda with the Court and serve the same on counsel  
25 for Defendants no later than December 16, 2013. Service shall be performed by  
26 personal or overnight delivery, facsimile, or email, and documents shall be  
27 delivered so that they shall be received by the other parties no later than 1 p.m.  
28 (PST) on the appropriate dates listed in this Subparagraph;

1           B.     The question of whether this Court should enter a preliminary  
2 injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure enjoining  
3 the Defendants during the pendency of this action shall be resolved on the  
4 pleadings, declarations, exhibits, and memoranda filed by, and oral argument of,  
5 the parties. Live testimony shall be heard only on further order of this Court. If a  
6 party seeks to present live testimony, it shall file a motion with the Court and serve  
7 it on counsel for the other parties at least five (5) business days prior to the  
8 preliminary injunction hearing in this matter. Such motion shall set forth the name,  
9 address, and telephone number of each proposed witness, a detailed summary or  
10 affidavit disclosing the substance of each proposed witness' expected testimony,  
11 and an explanation of why the taking of live testimony would be helpful to this  
12 Court. Any papers opposing a timely motion to present live testimony or to  
13 present live testimony in response to live testimony to be presented by another  
14 party shall be filed with this Court and served on the other parties at least three (3)  
15 business days prior to the preliminary injunction hearing in this matter. Provided  
16 that service shall be performed by personal or overnight delivery or by facsimile or  
17 email, and documents shall be delivered so that they shall be received by the other  
18 parties no later than 1 p.m. (PST) on the appropriate dates listed in this  
19 Subparagraph; and

20           C.     If a party moves to offer its own live witness at the preliminary  
21 injunction hearing, the party must make the witness available for deposition prior  
22 to the hearing. An opposing party may serve a notice of deposition no later than  
23 two (2) days before the noticed deposition date. Such depositions may be  
24 conducted telephonically or in person. Deposition transcripts that have not been  
25 signed by the witness may be used at the preliminary injunction hearing in this  
26 matter. Provided that, notwithstanding Federal Rule of Civil Procedure 30(a)(2),  
27 this Section shall not preclude any future depositions by the deposing party.  
28 Provided further, that any deposition taken pursuant to this Section shall be in



1 addition to, and not subject to, the presumptive limits on depositions set forth in  
2 Federal Rule of Civil Procedure 30(a)(2)(A). Provided further that service shall be  
3 performed by personal or overnight delivery or by facsimile or email, and  
4 documents shall be delivered so that they shall be received by the other parties no  
5 later than 1 p.m. (PST) on the appropriate dates listed in this Subparagraph.

6 **XXIII. SERVICE OF THIS ORDER**

7 **IT IS FURTHER ORDERED** that copies of this Order may be served by  
8 any means, including facsimile transmission, email, personal or overnight delivery,  
9 or U.S. Mail, by agents and employees of the FTC or any state or federal law  
10 enforcement agency or by private process server, upon any financial institution or  
11 other entity or person that may have possession, custody, or control of any  
12 documents or assets of any Defendant, or that may otherwise be subject to any  
13 provision of this Order. Service upon any branch or office of any financial  
14 institution shall effect service upon the entire financial institution.

15 **XXIV. SERVICE UPON THE COMMISSION**

16 **IT IS FURTHER ORDERED**, with regard to any correspondence or  
17 pleadings related to this Order, that service on the Commission's counsel shall be  
18 performed by commercial overnight mail delivery, facsimile, or email to the  
19 attention of: Heather Allen, Division of Financial Practices, Federal Trade  
20 Commission, 600 Pennsylvania Ave., NW, Mailstop NJ-3158, Washington, DC,  
21 20580, hallen@ftc.gov, (202) 326-3629 (fax).

22 **XXV. RETENTION OF JURISDICTION**

23 **IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of  
24 this matter for all purposes of construction, modification, and enforcement of this  
25 Order.

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SO ORDERED this 5th day of December, 2013, at 3:00 p.m.

A handwritten signature in blue ink that reads "Dale S. Fischer". The signature is written in a cursive style with a large initial 'D'.

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UNITED STATES DISTRICT JUDGE