

1 DAVID C. SHONKA  
Acting General Counsel  
2 ADAM M. WESOLOWSKI  
GREGORY A. ASHE  
3 Federal Trade Commission  
600 Pennsylvania Avenue NW  
4 Washington, DC 20850  
Telephone: 202-326-3068 (Wesolowski)  
5 Telephone: 202-326-3719 (Ashe)  
6 Facsimile: 202-326-3768  
Email: [awesolowski@ftc.gov](mailto:awesolowski@ftc.gov); [gashe@ftc.gov](mailto:gashe@ftc.gov)

7 STEVEN W. MYHRE  
Acting United States Attorney  
8 BLAINE T. WELSH  
Assistant United States Attorney  
9 Nevada Bar No. 4790  
333 Las Vegas Blvd. South, Suite 5000  
10 Las Vegas, Nevada 89101  
Phone: (702) 388-6336  
11 Facsimile: (702) 388-6787

12 Attorneys for Plaintiff

13  
14 UNITED STATES DISTRICT COURT  
15 DISTRICT OF NEVADA

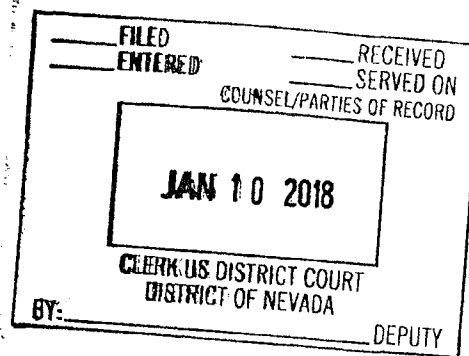
16 FEDERAL TRADE COMMISSION,

17 Plaintiff,

18 v.

19 CONSUMER DEFENSE, LLC, *et al.*,

20 Defendants.  
21  
22  
23  
24



Case No. 2:18-cv-00030-JCM-PAL

**EX PARTE**  
**TEMPORARY RESTRAINING**  
**ORDER WITH ASSET FREEZE,**  
**APPOINTMENT OF RECEIVER,**  
**AND OTHER EQUITABLE**  
**RELIEF, AND ORDER TO SHOW**  
**CAUSE WHY A PRELIMINARY**  
**INJUNCTION SHOULD NOT**  
**ISSUE**

**FILED UNDER SEAL**

25 Plaintiff, the Federal Trade Commission ("FTC"), has filed its Complaint for Permanent  
26 Injunction and Other Equitable Relief pursuant to Section 13(b) of the Federal Trade  
27

Commission Act ("FTC Act"), 15 U.S.C. § 53(b), and the 2009 Omnibus Appropriations Act, Public Law 111-8, Section 626, 123 Stat. 524, 678 (Mar. 11, 2009) ("Omnibus Act"), as clarified by the Credit Card Accountability Responsibility and Disclosure Act of 2009, Public Law 111-24, Section 511, 123 Stat. 1734, 1763-64 (May 22, 2009) ("Credit Card Act"), and amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111-203, Section 1097, 124 Stat. 1376, 2102-03 (July 21, 2010) ("Dodd-Frank Act"), 12 U.S.C. § 5538, and has moved, pursuant to Fed. R. Civ. P. 65(b), for a temporary restraining order, asset freeze, other equitable relief, and an order to show cause why a preliminary injunction should not issue against Consumer Defense, LLC (Nevada); Consumer Link, Inc.; Preferred Law, PLLC; American Home Loan Counselors; American Home Loans, LLC; Consumer Defense Group, LLC; Consumer Defense, LLC (Utah); Brown Legal, Inc.; AM Property Management, LLC; FMG Partners, LLC; Zinly, LLC; Jonathan P. Hanley; Benjamin R. Horton; and Sandra X. Hanley.

#### FINDINGS OF FACT

The Court, having considered the Complaint, the *ex parte* Motion for a Temporary Restraining Order, declarations, exhibits, and the memorandum of points and authorities filed in support thereof, and being otherwise advised, finds that:

A. This Court has jurisdiction over the subject matter of this case, and there is good cause to believe that it will have jurisdiction over all parties hereto and that venue in this district is proper.

B. There is good cause to believe that Defendants have engaged in and are likely to engage in acts or practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the Mortgage Assistance Relief Services Rule ("MARS Rule" or Regulation O), 12 C.F.R. Part 1015, and that the FTC is therefore likely to prevail on the merits of this action.

1 C. There is good cause to believe that immediate and irreparable harm will result  
2 from Defendants' ongoing violations of the FTC Act and the MARS Rule unless Defendants are  
3 immediately restrained and enjoined by order of this Court.

4 D. There is good cause to believe that immediate and irreparable damage to the  
5 Court's ability to grant effective final relief for consumers – including monetary restitution,  
6 rescission, disgorgement or refunds – will occur from the sale, transfer, destruction or other  
7 disposition or concealment by Defendants of their assets or records, unless Defendants are  
8 immediately restrained and enjoined by order of this Court; and that, in accordance with Fed. R.  
9 Civ. P. 65(b), the interests of justice require that this Order be granted without prior notice to  
10 Defendants. Thus, there is good cause for relieving the FTC of the duty to provide Defendants  
11 with prior notice of its Motion for a Temporary Restraining Order.

12 E. Good cause exists for appointing a temporary receiver over the Receivership  
13 Entities, freezing Defendants' assets, permitting the FTC and the Receiver immediate access to  
14 the Defendants' business premises, and permitting the FTC and the Receiver to take expedited  
15 discovery.

16 F. Weighing the equities and considering the FTC's likelihood of ultimate success  
17 on the merits, a temporary restraining order with an asset freeze, the appointment of a temporary  
18 receiver, immediate access to business premises, expedited discovery, and other equitable relief  
19 is in the public interest.

20 G. This Court has authority to issue this Order pursuant to Section 13(b) of the FTC  
21 Act, 15 U.S.C. § 53(b); Section 626 of the Omnibus Act, 12 U.S.C. § 5538; Federal Rule of Civil  
22 Procedure 65; and the All Writs Act, 28 U.S.C. § 1651.

23 H. No security is required of any agency of the United States for issuance of a  
24 temporary restraining order. Fed. R. Civ. P. 65(c).

#### 25 DEFINITIONS

26 For the purpose of this Order, the following definitions shall apply:  
27

1           A.     **“Asset”** means any legal or equitable interest in, right to, or claim to, any  
2 property, wherever located and by whomever held.

3           B.     **“Commercial communication”** means any written or oral statement, illustration,  
4 or depiction, whether in English or any other language, that is designed to affect a sale or create  
5 interest in purchasing any service, plan, or program, whether it appears on or in a label, package,  
6 package insert, radio, television, cable television, brochure, newspaper, magazine, pamphlet,  
7 leaflet, circular, mailer, book insert, free standing insert, letter, catalogue, poster, chart, billboard,  
8 public transit card, point of purchase display, film, slide, audio program transmitted over a  
9 telephone system, telemarketing script, on hold script, upsell script, training materials provided  
10 to telemarketing firms, program-length commercial (“infomercial”), the Internet, cellular  
11 network, or any other medium. Promotional materials and items and Web pages are included in  
12 the term “commercial communication.”

13          C.     **“Consumer”** means any person.

14          D.     **“Consumer-specific commercial communication”** means a commercial  
15 communication that occurs prior to a consumer agreeing to permit the provider to seek offers of  
16 mortgage assistance relief on behalf of the consumer, or otherwise agreeing to use the mortgage  
17 assistance relief service, and that is directed at a specific consumer.

18          E.     **“Corporate Defendants”** means Consumer Defense, LLC (a Nevada LLC);  
19 Consumer Link, Inc.; Preferred Law, PLLC; American Home Loan Counselors; American Home  
20 Loans, LLC; Consumer Defense Group, LLC; Consumer Defense, LLC (a Utah LLC); Brown  
21 Legal, Inc.; AM Property Management, LLC; FMG Partners, LLC; Zinly, LLC; and each of their  
22 subsidiaries, affiliates, successors, and assigns.

23          F.     **“Defendants”** means the Corporate Defendants and the Individual Defendants,  
24 individually, collectively, or in any combination.

25          G.     **“Document”** is synonymous in meaning and equal in scope to the usage of  
26 “document” and “electronically stored information” in Federal Rule of Civil Procedure 34(a),  
27

1 Fed. R. Civ. P. 34(a), and includes writings, drawings, graphs, charts, photographs, sound and  
2 video recordings, images, Internet sites, web pages, websites, electronic correspondence,  
3 including e-mail and instant messages, contracts, accounting data, advertisements, FTP Logs,  
4 Server Access Logs, books, written or printed records, handwritten notes, telephone logs,  
5 telephone scripts, receipt books, ledgers, personal and business canceled checks and check  
6 registers, bank statements, appointment books, computer records, customer or sales databases  
7 and any other electronically stored information, including Documents located on remote servers  
8 or cloud computing systems, and other data or data compilations from which information can be  
9 obtained directly or, if necessary, after translation into a reasonably usable form. A draft or non-  
10 identical copy is a separate document within the meaning of the term.

11 H. **“Electronic Data Host”** means any person or entity in the business of storing,  
12 hosting, or otherwise maintaining electronically stored information. This includes, but is not  
13 limited to, any entity hosting a website or server, and any entity providing “cloud based”  
14 electronic storage.

15 I. **“General commercial communication”** means a commercial communication  
16 that occurs prior to the consumer agreeing to permit the provider to seek offers of mortgage  
17 assistance relief on behalf of the consumer, or otherwise agreeing to use the mortgage assistance  
18 relief service, and that is not directed at a specific consumer.

19 J. **“Individual Defendant(s)”** means Jonathan P. Hanley, Benjamin R. Horton, and  
20 Sandra X. Hanley, individually, collectively, or in any combination.

21 K. **“Mortgage assistance relief service”** means any product, service, plan, or  
22 program, offered or provided to the consumer in exchange for consideration, that is represented,  
23 expressly or by implication, to assist or attempt to assist the consumer with any of the following:

- 24 1. stopping, preventing, or postponing any mortgage or deed of foreclosure sale for  
25 the consumer’s dwelling, any repossession of the consumer’s dwelling, or  
26 otherwise saving the consumer’s dwelling from foreclosure or repossession;  
27

2. negotiating, obtaining, or arranging a modification of any term of a dwelling loan, including a reduction in the amount of interest, principal, balance, monthly payments, or fees;
3. obtaining any forbearance or modification in the timing of payments from any dwelling loan holder or servicer on any dwelling loan;
4. negotiating, obtaining, or arranging any extension of the period of time within which the consumer may (i) cure his or her default on a dwelling loan, (ii) reinstate his or her dwelling loan, (iii) redeem a dwelling, or (iv) exercise any right to reinstate a dwelling loan or redeem a dwelling;
5. obtaining any waiver of an acceleration clause or balloon payment contained in any promissory note or contract secured by any dwelling; or
6. negotiating, obtaining, or arranging (i) a short sale of a dwelling, (ii) a deed-in-lieu of foreclosure, or (iii) any other disposition of a dwelling other than a sale to a third party who is not the dwelling loan holder.

The foregoing shall include any manner of claimed assistance, including auditing or examining a consumer's mortgage or home loan application.

L. **"Person"** means a natural person, an organization or other legal entity, including a corporation, partnership, sole proprietorship, limited liability company, association, cooperative, or any other group or combination acting as an entity.

M. **"Receiver"** means the temporary receiver appointed in Section XIII of this Order and any deputy receivers that shall be named by the temporary receiver.

N. **"Receivership Entities"** means Corporate Defendants as well as any other entity that has conducted any business related to mortgage assistance relief services, including receipt of Assets derived from any activity that is the subject of the Complaint in this matter, and that the Receiver determines is controlled or owned by any Defendant.

**ORDER**

**PROHIBITED BUSINESS ACTIVITIES**

**I. IT IS THEREFORE ORDERED** that Defendants, Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or indirectly, in connection with the advertising, marketing, promoting, or offering for sale of any mortgage assistance relief services, are temporarily restrained and enjoined from:

A. misrepresenting or assisting others in misrepresenting, expressly or by implication:

1. that any person generally will obtain mortgage loan modifications for consumers that will make their payments substantially more affordable, substantially lower their interest rates, or help them avoid foreclosure;
2. that any person is affiliated with, endorsed or approved by, or are otherwise associated with the maker, holder, or servicer of a consumer's dwelling loan, including claiming that any person has a special relationship or special agreements with the maker, holder, or servicer of a consumer's dwelling loan;
3. that any person is part of or affiliated with, endorsed or approved by, or is otherwise associated with the federal government or federal government programs;
4. that a consumer is not obligated to, or should not, make scheduled periodic payments or any other payments pursuant to the terms of the consumer's dwelling loan; and
5. any other fact material to consumers concerning any mortgage assistance relief service, such as: the total costs; any material restrictions,

1 limitations, or conditions; or any material aspect of its performance,  
2 efficacy, nature, or central characteristics; and

3 B. making or assisting others in making, any representation, expressly or by  
4 implication, about the benefits, performance, or efficacy of any product or service, unless the  
5 representation is non-misleading and, at the time such representation is made, Defendants  
6 possess and rely upon competent and reliable evidence that is sufficient in quality and quantity  
7 based on standards generally accepted in the relevant fields, when considered in light of the  
8 entire body of relevant and reliable evidence, to substantiate that the representation is true.

9 **PROHIBITION ON COLLECTION OF ADVANCE FEES**

10 **II. IT IS FURTHER ORDERED** that Defendants, Defendants' officers, agents, employees,  
11 and attorneys, and all other persons in active concert or participation with them, who receive  
12 actual notice of this Order by personal service or otherwise, whether acting directly or indirectly,  
13 in connection with the advertising, marketing, promoting, or offering for sale of any mortgage  
14 assistance relief services, are hereby temporarily restrained and enjoined from requesting or  
15 receiving payment of any fee or other consideration for any mortgage assistance relief service  
16 before the consumer has executed a written agreement with the consumer's dwelling loan holder  
17 or servicer incorporating the offer of mortgage assistance relief that a Defendant obtained from  
18 the consumer's dwelling loan holder or servicer on the consumer's behalf.

19 **REQUIRED DISCLOSURES**

20 **III. IT IS FURTHER ORDERED** that Defendants, Defendants' officers, agents, employees,  
21 and attorneys, and all other persons in active concert or participation with them, who receive  
22 actual notice of this Order by personal service or otherwise, whether acting directly or indirectly,  
23 in connection with the advertising, marketing, promoting, or offering for sale of any mortgage  
24 assistance relief services, are hereby temporarily restrained and enjoined from engaging in the  
25 following conduct:  
26  
27



1           A.     Failing to disclose the following information in all general commercial  
2 communications:

- 3                   1.     "[Name of Company] is not associated with the government, and our  
4 service is not approved by the government or your lender;" and  
5                   2.     "Even if you accept this offer and use our service, your lender may not  
6 agree to change your loan;"

7           B.     Failing to disclose the following information in all consumer-specific commercial  
8 communications:

- 9                   1.     "You may stop doing business with us at any time. You may accept or  
10 reject the offer of mortgage assistance we obtain from your lender [or  
11 servicer]. If you reject the offer, you do not have to pay us. If you accept  
12 the offer, you will have to pay us [insert amount or method for calculating  
13 the amount] for our services." For the purposes of this section, the amount  
14 "you will have to pay" shall consist of the total amount the consumer must  
15 pay to purchase, receive, and use all of the mortgage assistance relief  
16 services that are the subject of the sales offer, including but not limited to,  
17 all fees and charges;  
18                   2.     "[Name of company] is not associated with the government, and our  
19 service is not approved by the government or your lender;"  
20                   3.     "Even if you accept this offer and use our service, your lender may not  
21 agree to change your loan;" and  
22                   4.     "If you stop paying your mortgage, you could lose your home and  
23 damage your credit."

24                   **PROHIBITION ON RELEASE OF CUSTOMER INFORMATION**

25     **IV.   IT IS FURTHER ORDERED** that Defendants, Defendants' officers, agents, employees,  
26 and attorneys, and all other Persons in active concert or participation with any of them, who  
27

1 receive actual notice of this Order, whether acting directly or indirectly, are hereby temporarily  
2 restrained and enjoined from:

3       A.     Selling, renting, leasing, transferring, or otherwise disclosing, the name, address,  
4 birth date, telephone number, email address, credit card number, bank account number, Social  
5 Security number, or other financial or identifying information of any person that any Defendant  
6 obtained in connection with any activity that pertains to the subject matter of this Order; and

7       B.     Benefitting from or using the name, address, birth date, telephone number, email  
8 address, credit card number, bank account number, Social Security number, or other financial or  
9 identifying information of any person that any Defendant obtained in connection with any  
10 activity that pertains to the subject matter of this Order.

11       Provided, however, that Defendants may disclose such identifying information to a law  
12 enforcement agency, to their attorneys as required for their defense, as required by any law,  
13 regulation, or court order, or in any filings, pleadings or discovery in this action in the manner  
14 required by the Federal Rules of Civil Procedure and by any protective order in the case.

15                                   **ASSET FREEZE**

16       **V.   IT IS FURTHER ORDERED** that Defendants, Defendants' officers, agents, employees,  
17 and attorneys, and all other Persons in active concert or participation with any of them, who  
18 receive actual notice of this Order, whether acting directly or indirectly, are hereby temporarily  
19 restrained and enjoined from:

20       A.     Transferring, liquidating, converting, encumbering, pledging, loaning, selling,  
21 concealing, dissipating, disbursing, assigning, relinquishing, spending, withdrawing, granting a  
22 lien or security interest or other interest in, or otherwise disposing of any Assets that are (1)  
23 owned or controlled, directly or indirectly, by any Defendant; (2) held, in part or in whole, for  
24 the benefit of any Defendant; (3) in the actual or constructive possession of any Defendant; or (4)  
25 owned or controlled by, in the actual or constructive possession of, or otherwise held for the  
26  
27

1 benefit of, any corporation, partnership, asset protection trust, or other entity that is directly or  
2 indirectly owned, managed or controlled by any Defendant.

3 B. Opening or causing to be opened any safe deposit boxes, commercial mail boxes,  
4 or storage facilities titled in the name of any Defendant or subject to access by any Defendant,  
5 except as necessary to comply with written requests from the Receiver acting pursuant to its  
6 authority under this Order;

7 C. Incurring charges or cash advances on any credit, debit, or ATM card issued in  
8 the name, individually or jointly, of any Corporate Defendant or any corporation, partnership, or  
9 other entity directly or indirectly owned, managed, or controlled by any Defendant or of which  
10 any Defendant is an officer, director, member, or manager. This includes any corporate  
11 bankcard or corporate credit card account for which any Defendant is, or was on the date that this  
12 Order was signed, an authorized signor; or

13 D. Cashing any checks or depositing any money orders or cash received from  
14 consumers, clients, or customers of any Defendant.

15 E. The Assets affected by this Section shall include: (1) all Assets of Defendants as  
16 of the time this Order is entered; and (2) Assets obtained by Defendants after this Order is  
17 entered if those Assets are derived from any activity that is the subject of the Complaint in this  
18 matter or that is prohibited by this Order. This Section does not prohibit any transfers to the  
19 Receiver or repatriation of foreign Assets specifically required by this order.

20 **DUTIES OF ASSET HOLDERS AND OTHER THIRD PARTIES**

21 **VI. IT IS FURTHER ORDERED** that any financial or brokerage institution, Electronic  
22 Data Host, credit card processor, payment processor, merchant bank, acquiring bank,  
23 independent sales organization, third party processor, payment gateway, insurance company,  
24 business entity, or person who receives actual notice of this Order (by service or otherwise) and  
25 that (a) holds, controls, or maintains custody, through an account or otherwise, of any Document  
26 on behalf of any Defendant or any Asset that is: owned or controlled, directly or indirectly, by  
27

1 any Defendant; held, in part or in whole, for the benefit of any Defendant; in the actual or  
2 constructive possession of any Defendant; or owned or controlled by, in the actual or  
3 constructive possession of, or otherwise held for the benefit of, any corporation, partnership,  
4 asset protection trust, or other entity that is directly or indirectly owned, managed or controlled  
5 by any Defendant; (b) holds, controls, or maintains custody of any Document or Asset associated  
6 with credits, debits or charges made on behalf of any Defendant, including reserve funds held by  
7 payment processors, credit card processors, merchant banks, acquiring banks, independent sales  
8 organizations, third party processors, payment gateways, insurance companies, or other entities;  
9 or (c) has held, controlled, or maintained custody of any such Document, Asset, or account at  
10 any time since the date of entry of this Order shall:

11 A. Hold, preserve, and retain within its control and prohibit the withdrawal, removal,  
12 alteration, assignment, transfer, pledge, encumbrance, disbursement, dissipation, relinquishment,  
13 conversion, sale, or other disposal of any such Document or Asset, as well as all Documents or  
14 other property related to such Assets, except by further order of this Court;

15 B. Deny any Person, except the Receiver, access to any safe deposit box, commercial  
16 mail box, or storage facility that is titled in the name of any Defendant, either individually or  
17 jointly, or otherwise subject to access by any Defendant;

18 C. Provide FTC counsel and the Receiver, within three (3) days of receiving a copy  
19 of this Order, a sworn statement setting forth:

- 20 1. The identification number of each such account or Asset;
- 21 2. The balance of each such account, or a description of the nature and value  
22 of each such Asset as of the close of business on the day on which this  
23 Order is served, and, if the account or other Asset has been closed or  
24 removed, the date closed or removed, the total funds removed in order to  
25 close the account, and the name of the person or entity to whom such  
26 account or other Asset was remitted; and  
27

- 1           3.     The identification of any safe deposit box, commercial mail box, or  
2                     storage facility that is either titled in the name, individually or jointly, of  
3                     any Defendant, or is otherwise subject to access by any Defendant; and

4           D.     Upon the request of FTC counsel or the Receiver, promptly provide FTC counsel  
5     and the Receiver with copies of all records or other Documents pertaining to such account or  
6     Asset, including originals or copies of account applications, account statements, signature cards,  
7     checks, drafts, deposit tickets, transfers to and from the accounts, including wire transfers and  
8     wire transfer instructions, all other debit and credit instruments or slips, currency transaction  
9     reports, 1099 forms, and all logs and records pertaining to safe deposit boxes, commercial mail  
10    boxes, and storage facilities.

11           Provided, however, that this Section does not prohibit any transfers to the Receiver or  
12    repatriation of foreign Assets specifically required by this order.

13                     **FINANCIAL DISCLOSURES**

14 **VII. IT IS FURTHER ORDERED** that each Defendant, within five (5) days of service of  
15    this Order upon them, shall prepare and deliver to FTC counsel and the Receiver:

- 16           A.     completed financial statements on the forms attached to this Order as **Attachment**  
17    **A** (Financial Statement of Individual Defendant) for each Individual Defendant, and **Attachment**  
18    **B** (Financial Statement of Corporate Defendant) for each Corporate Defendant; and  
19           B.     completed **Attachment C** (IRS Form 4506, Request for Copy of a Tax Return)  
20    for each Individual and Corporate Defendant.

21                     **FOREIGN ASSET REPATRIATION**

22 **VIII. IT IS FURTHER ORDERED** that within five (5) days following the service of this  
23    Order, each Defendant shall:

- 24           A.     Provide FTC counsel and the Receiver with a full accounting, verified under oath  
25    and accurate as of the date of this Order, of all Assets, Documents, and accounts outside of the  
26    United States which are: (1) titled in the name, individually or jointly, of any Defendant; (2)  
27

1 held by any person or entity for the benefit of any Defendant or for the benefit of, any  
2 corporation, partnership, asset protection trust, or other entity that is directly or indirectly owned,  
3 managed or controlled by any Defendant; or (3) under the direct or indirect control, whether  
4 jointly or singly, of any Defendant;

5 B. Take all steps necessary to provide FTC counsel and Receiver access to all  
6 Documents and records that may be held by third parties located outside of the territorial United  
7 States of America, including signing the Consent to Release of Financial Records appended to  
8 this Order as **Attachment D**.

9 C. Transfer to the territory of the United States all Documents and Assets located in  
10 foreign countries which are: (1) titled in the name, individually or jointly, of any Defendant; (2)  
11 held by any person or entity for the benefit of any Defendant or for the benefit of, any  
12 corporation, partnership, asset protection trust, or other entity that is directly or indirectly owned,  
13 managed or controlled by any Defendant; or (3) under the direct or indirect control, whether  
14 jointly or singly, of any Defendant; and

15 D. The same business day as any repatriation, (1) notify the Receiver and counsel for  
16 the FTC of the name and location of the financial institution or other entity that is the recipient of  
17 such Documents or Assets; and (2) serve this Order on any such financial institution or other  
18 entity.

19 **NON-INTERFERENCE WITH REPATRIATION**

20 **IX. IT IS FURTHER ORDERED** that Defendants, Defendants' officers, agents, employees,  
21 and attorneys, and all other Persons in active concert or participation with any of them, who  
22 receive actual notice of this Order, whether acting directly or indirectly, are hereby temporarily  
23 restrained and enjoined from taking any action, directly or indirectly, which may result in the  
24 encumbrance or dissipation of foreign Assets, or in the hindrance of the repatriation required by  
25 this Order, including, but not limited to:  
26  
27

1           A.     Sending any communication or engaging in any other act, directly or indirectly,  
2     that results in a determination by a foreign trustee or other entity that a “duress” event has  
3     occurred under the terms of a foreign trust agreement until such time that all Defendants’ Assets  
4     have been fully repatriated pursuant to this Order; or

5           B.     Notifying any trustee, protector or other agent of any foreign trust or other related  
6     entities of either the existence of this Order, or of the fact that repatriation is required pursuant to  
7     a court order, until such time that all Defendants’ Assets have been fully repatriated pursuant to  
8     this Order.

9                                   **CONSUMER CREDIT REPORTS**

10    **X.    IT IS FURTHER ORDERED** that the FTC may obtain credit reports concerning any  
11    Defendants pursuant to Section 604(a)(1) of the Fair Credit Reporting Act, 15 U.S.C.  
12    1681b(a)(1), and that, upon written request, any credit reporting agency from which such reports  
13    are requested shall provide them to the FTC.

14                                   **PRESERVATION OF RECORDS**

15    **XI.   IT IS FURTHER ORDERED** that Defendants, Defendants’ officers, agents, employees,  
16    and attorneys, and all other Persons in active concert or participation with any of them, who  
17    receive actual notice of this Order, whether acting directly or indirectly, are hereby temporarily  
18    restrained and enjoined from:

19           A.     Destroying, erasing, falsifying, writing over, mutilating, concealing, altering,  
20    transferring, or otherwise disposing of, in any manner, directly or indirectly, Documents that  
21    relate to: (1) the business, business practices, Assets, or business or personal finances of any  
22    Defendant; (2) the business practices or finances of entities directly or indirectly under the  
23    control of any Defendant; or (3) the business practices or finances of entities directly or  
24    indirectly under common control with any other Defendant; and

1 B. Failing to create and maintain Documents that, in reasonable detail, accurately,  
2 fairly, and completely reflect Defendants' incomes, disbursements, transactions, and use of  
3 Defendants' Assets.

4 **REPORT OF NEW BUSINESS ACTIVITY**

5 **XII. IT IS FURTHER ORDERED** that Defendants, Defendants' officers, agents, employees,  
6 and attorneys, and all other persons in active concert or participation with any of them, who  
7 receive actual notice of this Order, whether acting directly or indirectly, are hereby temporarily  
8 restrained and enjoined from creating, operating, or exercising any control over any business  
9 entity, whether newly formed or previously inactive, including any partnership, limited  
10 partnership, joint venture, sole proprietorship, or corporation, without first providing FTC  
11 counsel and the Receiver with a written statement disclosing: (1) the name of the business  
12 entity; (2) the address and telephone number of the business entity; (3) the names of the business  
13 entity's officers, directors, principals, managers, and employees; and (4) a detailed description of  
14 the business entity's intended activities.

15 **APPOINTMENT OF TEMPORARY RECEIVER**

16 **XIII. IT IS FURTHER ORDERED** that Thomas W. McNamara is appointed as temporary  
17 receiver of the Receivership Entities with full powers of an equity receiver. The Receiver shall  
18 be solely the agent of this Court in acting as Receiver under this Order.

19 **DUTIES AND AUTHORITY OF RECEIVER**

20 **XIV. IT IS FURTHER ORDERED** that the Receiver is directed and authorized to  
21 accomplish the following:

22 A. Assume full control of Receivership Entities by removing, as the Receiver deems  
23 necessary or advisable, any director, officer, independent contractor, employee, attorney, or  
24 agent of any Receivership Entity from control of, management of, or participation in, the affairs  
25 of the Receivership Entity;  
26  
27



1           B.     Take exclusive custody, control, and possession of all Assets and Documents of,  
2 or in the possession, custody, or under the control of, any Receivership Entity, wherever situated;

3           C.     Conserve, hold, manage, and prevent the loss of all Assets of the Receivership  
4 Entities, and perform all acts necessary or advisable to preserve the value of those Assets. The  
5 Receiver shall assume control over the income and profits therefrom and all sums of money now  
6 or hereafter due or owing to the Receivership Entities. The Receiver shall have full power to sue  
7 for, collect, and receive, all Assets of the Receivership Entities and of other persons or entities  
8 whose interests are now under the direction, possession, custody, or control of, the Receivership  
9 Entities. Provided, however, that the Receiver shall not attempt to collect any amount from a  
10 consumer if the Receiver believes the consumer's debt to the Receivership Entities has resulted  
11 from the deceptive acts or practices or other violations of law alleged in the Complaint in this  
12 matter, without prior Court approval;

13           D.     Obtain, conserve, hold, manage, and prevent the loss of all Documents of the  
14 Receivership Entities, and perform all acts necessary or advisable to preserve such Documents.  
15 The Receiver shall: divert mail; preserve all Documents of the Receivership Entities that are  
16 accessible via electronic means such as online access to financial accounts and access to  
17 electronic documents held onsite or by Electronic Data Hosts, by changing usernames,  
18 passwords or other log-in credentials; take possession of all electronic Documents of the  
19 Receivership Entities stored onsite or remotely; take whatever steps necessary to preserve all  
20 such Documents; and obtain the assistance of the FTC's Digital Forensic Unit for the purpose of  
21 obtaining electronic documents stored onsite or remotely.

22           E.     Choose, engage, and employ attorneys, accountants, appraisers, and other  
23 independent contractors and technical specialists, as the Receiver deems advisable or necessary  
24 in the performance of duties and responsibilities under the authority granted by this Order;

25           F.     Make payments and disbursements from the receivership estate that are necessary  
26 or advisable for carrying out the directions of, or exercising the authority granted by, this Order,  
27

1 and to incur, or authorize the making of, such agreements as may be necessary and advisable in  
2 discharging his or her duties as Receiver. The Receiver shall apply to the Court for prior  
3 approval of any payment of any debt or obligation incurred by the Receivership Entities prior to  
4 the date of entry of this Order, except payments that the Receiver deems necessary or advisable  
5 to secure Assets of the Receivership Entities, such as rental payments;

6 G. Take all steps necessary to secure and take exclusive custody of each location  
7 from which the Receivership Entities operate their businesses. Such steps may include, but are  
8 not limited to, any of the following, as the Receiver deems necessary or advisable: (1) securing  
9 the location by changing the locks and alarm codes and disconnecting any internet access or  
10 other means of access to the computers, servers, internal networks, or other records maintained at  
11 that location; and (2) requiring any persons present at the location to leave the premises, to  
12 provide the Receiver with proof of identification, and/or to demonstrate to the satisfaction of the  
13 Receiver that such persons are not removing from the premises Documents or Assets of the  
14 Receivership Entities. Law enforcement personnel, including, but not limited to, police or  
15 sheriffs, may assist the Receiver in implementing these provisions in order to keep the peace and  
16 maintain security. If requested by the Receiver, the United States Marshal will provide  
17 appropriate and necessary assistance to the Receiver to implement this Order and is authorized to  
18 use any necessary and reasonable force to do so;

19 H. Take all steps necessary to prevent the modification, destruction, or erasure of any  
20 web page or website registered to and operated, in whole or in part, by any Defendants, and to  
21 provide access to all such web page or websites to FTC representatives, agents, and assistants, as  
22 well as Defendants and their representatives;

23 I. Enter into and cancel contracts and purchase insurance as advisable or necessary;

24 J. Prevent the inequitable distribution of Assets and determine, adjust, and protect  
25 the interests of consumers who have transacted business with the Receivership Entities;  
26  
27

1 K. Make an accounting, as soon as practicable, of the Assets and financial condition  
2 of the receivership and file the accounting with the Court and deliver copies thereof to all parties;

3 L. Institute, compromise, adjust, appear in, intervene in, defend, dispose of, or  
4 otherwise become party to any legal action in state, federal or foreign courts or arbitration  
5 proceedings as the Receiver deems necessary and advisable to preserve or recover the Assets of  
6 the Receivership Entities, or to carry out the Receiver's mandate under this Order, including but  
7 not limited to, actions challenging fraudulent or voidable transfers;

8 M. Issue subpoenas to obtain Documents and records pertaining to the Receivership,  
9 and conduct discovery in this action on behalf of the receivership estate, in addition to obtaining  
10 other discovery as set forth in this Order;

11 N. Open one or more bank accounts at designated depositories for funds of the  
12 Receivership Entities. The Receiver shall deposit all funds of the Receivership Entities in such  
13 designated accounts and shall make all payments and disbursements from the receivership estate  
14 from such accounts. The Receiver shall serve copies of monthly account statements on all  
15 parties;

16 O. Maintain accurate records of all receipts and expenditures incurred as Receiver;

17 P. Allow the FTC's representatives, agents, and assistants, as well as Defendants'  
18 representatives and Defendants themselves, reasonable access to the premises of the  
19 Receivership Entities, or any other premises where the Receivership Entities conduct business.  
20 The purpose of this access shall be to inspect and copy any and all books, records, Documents,  
21 accounts, and other property owned by, or in the possession of, the Receivership Entities or their  
22 agents. The Receiver shall have the discretion to determine the time, manner, and reasonable  
23 conditions of such access;

24 Q. Allow the FTC's representatives, agents, and assistants, as well as Defendants and  
25 their representatives reasonable access to all Documents in the possession, custody, or control of  
26 the Receivership Entities;  
27

1 R. Cooperate with reasonable requests for information or assistance from any state or  
2 federal civil or criminal law enforcement agency;

3 S. Suspend business operations of the Receivership Entities if in the judgment of the  
4 Receiver such operations cannot be continued legally and profitably;

5 T. If the Receiver identifies a nonparty entity as a Receivership Entity, promptly  
6 notify the entity as well as the parties, and inform the entity that it can challenge the Receiver's  
7 determination by filing a motion with the Court. Provided, however, that the Receiver may delay  
8 providing such notice until the Receiver has established control of the nonparty entity and its  
9 assets and records, if the Receiver determines that notice to the entity or the parties before the  
10 Receiver establishes control over the entity may result in the destruction of records, dissipation  
11 of assets, or any other obstruction of the Receiver's control of the entity; and

12 U. If in the Receiver's judgment the business operations cannot be continued legally  
13 and profitably, take all steps necessary to ensure that any of the Receivership Entities' web pages  
14 or websites relating to the activities alleged in the Complaint cannot be accessed by the public, or  
15 are modified for consumer education and/or informational purposes, and take all steps necessary  
16 to ensure that any telephone numbers associated with the Receivership Entities cannot be  
17 accessed by the public, or are answered solely to provide consumer education or information  
18 regarding the status of operations.

19 **TRANSFER OF RECEIVERSHIP PROPERTY TO RECEIVER**

20 **XV. IT IS FURTHER ORDERED** that Defendants and any other person, with possession,  
21 custody or control of property of, or records relating to, the Receivership Entities shall, upon  
22 notice of this Order by personal service or otherwise, fully cooperate with and assist the Receiver  
23 in taking and maintaining possession, custody, or control of the Assets and Documents of the  
24 Receivership Entities and immediately transfer or deliver to the Receiver possession, custody,  
25 and control of, the following:

26 A. All Assets held by or for the benefit of the Receivership Entities;  
27

1 B. All Documents of or pertaining to the Receivership Entities;

2 C. All computers, electronic devices, mobile devices and machines used to conduct  
3 the business of the Receivership Entities;

4 D. All Assets and Documents belonging to other persons or entities whose interests  
5 are under the direction, possession, custody, or control of the Receivership Entities; and

6 E. All keys, codes, user names and passwords necessary to gain or to secure access  
7 to any Assets or Documents of or pertaining to the Receivership Entities, including access to  
8 their business premises, means of communication, accounts, computer systems (onsite and  
9 remote), Electronic Data Hosts, or other property.

10 In the event that any person or entity fails to deliver or transfer any Asset or Document,  
11 or otherwise fails to comply with any provision of this Section, the Receiver may file an  
12 Affidavit of Non-Compliance regarding the failure and a motion seeking compliance or a  
13 contempt citation.

14 **PROVISION OF INFORMATION TO RECEIVER**

15 **XVI. IT IS FURTHER ORDERED** that Defendants shall immediately provide to the  
16 Receiver:

17 A. A list of all Assets and accounts of the Receivership Entities that are held in any  
18 name other than the name of a Receivership Entity, or by any person or entity other than a  
19 Receivership Entity;

20 B. A list of all agents, employees, officers, attorneys, servants and those persons in  
21 active concert and participation with the Receivership Entities, or who have been associated or  
22 done business with the Receivership Entities; and

23 C. A description of any documents covered by attorney-client privilege or attorney  
24 work product, including files where such documents are likely to be located, authors or recipients  
25 of such documents, and search terms likely to identify such electronic documents.  
26  
27

**COOPERATION WITH THE RECEIVER**

**XVII. IT IS FURTHER ORDERED** that Defendants; Receivership Entities; Defendants' or Receivership Entities' officers, agents, employees, and attorneys, all other persons in active concert or participation with any of them, and any other person with possession, custody, or control of property of or records relating to the Receivership Entities who receive actual notice of this Order shall fully cooperate with and assist the Receiver. This cooperation and assistance shall include, but is not limited to, providing information to the Receiver that the Receiver deems necessary to exercise the authority and discharge the responsibilities of the Receiver under this Order; providing any keys, codes, user names and passwords required to access any computers, electronic devices, mobile devices, and machines (onsite or remotely) and any cloud account (including specific method to access account) or electronic file in any medium; advising all persons who owe money to any Receivership Entity that all debts should be paid directly to the Receiver; and transferring funds at the Receiver's direction and producing records related to the Assets and sales of the Receivership Entities.

**NON-INTERFERENCE WITH THE RECEIVER**

**XVIII. IT IS FURTHER ORDERED** that Defendants; Receivership Entities; Defendants' or Receivership Entities' officers, agents, employees, attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, and any other person served with a copy of this Order, are hereby restrained and enjoined from directly or indirectly:

- A. Interfering with the Receiver's efforts to manage, or take custody, control, or possession of, the Assets or Documents subject to the receivership;
- B. Transacting any of the business of the Receivership Entities;
- C. Transferring, receiving, altering, selling, encumbering, pledging, assigning, liquidating, or otherwise disposing of any Assets owned, controlled, or in the possession or custody of, or in which an interest is held or claimed by, the Receivership Entities; or

1 D. Refusing to cooperate with the Receiver or the Receiver's duly authorized agents  
2 in the exercise of their duties or authority under any order of this Court.

3 **STAY OF ACTIONS**

4 **XIX. IT IS FURTHER ORDERED** that, except by leave of this Court, during the pendency  
5 of the receivership ordered herein, Defendants, Defendants' officers, agents, employees,  
6 attorneys, and all other persons in active concert or participation with any of them, who  
7 receive actual notice of this Order, and their corporations, subsidiaries, divisions, or  
8 affiliates, and all investors, creditors, stockholders, lessors, customers and other persons  
9 seeking to establish or enforce any claim, right, or interest against or on behalf of  
10 Defendants, and all others acting for or on behalf of such persons, are hereby enjoined  
11 from taking action that would interfere with the exclusive jurisdiction of this Court over  
12 the Assets or Documents of the Receivership Entities, including, but not limited to:

- 13 A. Filing or assisting in the filing of a petition for relief under the Bankruptcy Code, 11  
14 U.S.C. § 101 *et seq.*, or of any similar insolvency proceeding on behalf of the  
15 Receivership Entities;
- 16 B. Commencing, prosecuting, or continuing a judicial, administrative, or other action or  
17 proceeding against the Receivership Entities, including the issuance or employment  
18 of process against the Receivership Entities, except that such actions may be  
19 commenced if necessary to toll any applicable statute of limitations;
- 20 C. Filing or enforcing any lien on any asset of the Receivership Entities, taking or  
21 attempting to take possession, custody, or control of any Asset of the Receivership  
22 Entities; or attempting to foreclose, forfeit, alter, or terminate any interest in any  
23 Asset of the Receivership Entities, whether such acts are part of a judicial proceeding,  
24 are acts of self-help, or otherwise;

25 Provided, however, that this Order does not stay: (1) the commencement or continuation  
26 of a criminal action or proceeding; (2) the commencement or continuation of an action or  
27

1 proceeding by a governmental unit to enforce such governmental unit's police or  
2 regulatory power; or (3) the enforcement of a judgment, other than a money judgment,  
3 obtained in an action or proceeding by a governmental unit to enforce such governmental  
4 unit's police or regulatory power.

#### 5 **COMPENSATION OF RECEIVER**

6 **XX.** **IT IS FURTHER ORDERED** that the Receiver and all personnel hired by the Receiver  
7 as herein authorized, including counsel to the Receiver and accountants, are entitled to  
8 reasonable compensation for the performance of duties pursuant to this Order and for the  
9 cost of actual out-of-pocket expenses incurred by them, from the Assets now held by, in  
10 the possession or control of, or which may be received by, the Receivership Entities. The  
11 Receiver shall file with the Court and serve on the parties periodic requests for the  
12 payment of such reasonable compensation, with the first such request filed no more than  
13 sixty (60) days after the date of entry of this Order. The Receiver shall not increase the  
14 hourly rates used as the bases for such fee applications without prior approval of the  
15 Court.

#### 16 **RECEIVER'S BOND**

17 **XXI.** **IT IS FURTHER ORDERED** that the Receiver shall file with the Clerk of this Court a  
18 bond in the sum of \$10,000 with sureties to be approved by the Court, conditioned that  
19 the Receiver will well and truly perform the duties of the office and abide by and perform  
20 all acts the Court directs. 28 U.S.C. § 754.

#### 21 **RECEIVER'S REPORTS**

22 **XXII.** **IT IS FURTHER ORDERED** that the Receiver shall report to this Court on or before  
23 the date set for the hearing to Show Cause regarding the Preliminary Injunction,  
24 regarding (1) the steps taken by the Receiver to implement the terms of this Order; (2) the  
25 value of all liquidated and unliquidated assets of the Receivership Entities; (3) the sum of  
26 all liabilities of the Receivership Entities; (4) the steps the Receiver intends to take in the  
27



1 future to (a) prevent any diminution in the value of assets of the Receivership Entities, (b)  
2 pursue receivership assets from third parties, and (c) adjust the liabilities of the  
3 Receivership Entities, if appropriate; (5) whether the business of the Receivership  
4 Entities can be operated lawfully and profitably; and (6) any other matters that the  
5 Receiver believes should be brought to the Court's attention. *Provided, however*, that if  
6 any of the required information would hinder the Receiver's ability to pursue receivership  
7 assets, the portions of the Receiver's report containing such information may be filed  
8 under seal and not served on the parties.

9 **IMMEDIATE ACCESS TO BUSINESS PREMISES AND RECORDS**

10 **XIII. IT IS FURTHER ORDERED that:**

11 A. In order to allow the FTC and the Receiver to preserve Assets and evidence relevant  
12 to this action and to expedite discovery, the FTC and the Receiver, and their  
13 representatives, agents, contractors, and assistants, shall have immediate access to the  
14 business premises and storage facilities, owned, controlled, or used by the  
15 Receivership Entities. Such locations include, but are not limited to: 41 W 9000 S,  
16 Sandy, UT 84070; 8180 S 700 E, Ste. 110, Sandy, UT 84070; and any offsite location  
17 or commercial mailbox used by the Receivership Entities. The Receiver may exclude  
18 Defendants, Receivership Entities, and their employees from the business premises  
19 during the immediate access.

20 B. The FTC and the Receiver, and their representatives, agents, contractors, and  
21 assistants, are authorized to remove Documents from the Receivership Entities'  
22 premises in order that they may be inspected, inventoried, and copied. The FTC shall  
23 return any removed materials to the Receiver within five (5) business days of  
24 completing inventorying and copying, or such time as is agreed upon by the FTC and  
25 the Receiver;  
26  
27

- 1 C. The FTC's access to the Receivership Entities' documents pursuant to this Section  
2 shall not provide grounds for any Defendant to object to any subsequent request for  
3 documents served by the FTC.
- 4 D. The FTC and the Receiver, and their representatives, agents, contractors, and  
5 assistants, are authorized to obtain the assistance of federal, state and local law  
6 enforcement officers as they deem necessary to effect service and to implement  
7 peacefully the provisions of this Order;
- 8 E. If any Documents, computers, or electronic storage devices containing information  
9 related to the business practices or finances of the Receivership Entities are at a  
10 location other than those listed herein, including personal residence(s) of any  
11 Defendant, then, immediately upon receiving notice of this order, Defendants and  
12 Receivership Entities shall produce to the Receiver all such Documents, computers,  
13 and electronic storage devices, along with any codes or passwords needed for access.  
14 In order to prevent the destruction of computer data, upon service of this Order, any  
15 such computers or electronic storage devices shall be powered down in the normal  
16 course of the operating system used on such devices and shall not be powered up or  
17 used until produced for copying and inspection; and
- 18 F. If any communications or records of any Receivership Entity are stored with an  
19 Electronic Data Host, such Entity shall, immediately upon receiving notice of this  
20 order, provide the Receiver with the username, passwords, and any other login  
21 credential needed to access the communications and records, and shall not attempt to  
22 access, or cause a third-party to attempt to access, the communications or records.

23 **DISTRIBUTION OF ORDER BY DEFENDANTS**

24 **XXIV. IT IS FURTHER ORDERED** that Defendants shall immediately provide a copy of this  
25 Order to each affiliate, telemarketer, marketer, sales entity, successor, assign, member,  
26 officer, director, employee, agent, independent contractor, client, attorney, spouse,  
27

1 subsidiary, division, and representative of any Defendant, and shall, within ten (10) days  
2 from the date of entry of this Order, and provide the FTC and the Receiver with a sworn  
3 statement that this provision of the Order has been satisfied, which statement shall  
4 include the names, physical addresses, phone number, and email addresses of each such  
5 person or entity who received a copy of the Order. Furthermore, Defendants shall not  
6 take any action that would encourage officers, agents, members, directors, employees,  
7 salespersons, independent contractors, attorneys, subsidiaries, affiliates, successors,  
8 assigns or other persons or entities in active concert or participation with them to  
9 disregard this Order or believe that they are not bound by its provisions.

10 **EXPEDITED DISCOVERY**

11 **XXV. IT IS FURTHER ORDERED** that, notwithstanding the provisions of the Fed. R. Civ. P.  
12 26(d) and (f) and 30(a)(2)(c), and pursuant to Fed. R. Civ. P. 30(a), 34, and 45, the FTC  
13 and the Receiver are granted leave, at any time after service of this Order, to conduct  
14 limited expedited discovery for the purpose of discovering: (1) the nature, location,  
15 status, and extent of Defendants' Assets; (2) the nature, location, and extent of  
16 Defendants' business transactions and operations; (3) Documents reflecting Defendants'  
17 business transactions and operations; or (4) compliance with this Order. The limited  
18 expedited discovery set forth in this Section shall proceed as follows:

19 A. The FTC and the Receiver may take the deposition of parties and non-parties. Forty-  
20 eight (48) hours' notice shall be sufficient notice for such depositions. The  
21 limitations and conditions set forth in Rules 30(a)(2)(B) and 31(a)(2)(B) of the  
22 Federal Rules of Civil Procedure regarding subsequent depositions of an individual  
23 shall not apply to depositions taken pursuant to this Section. Any such deposition  
24 taken pursuant to this Section shall not be counted towards the deposition limit set  
25 forth in Rules 30(a)(2)(A) and 31(a)(2)(A) and depositions may be taken by telephone  
26 or other remote electronic means;  
27

- 1 B. The FTC and the Receiver may serve upon parties requests for production of  
2 Documents or inspection that require production or inspection within five (5) days of  
3 service, provided, however, that three (3) days of notice shall be deemed sufficient for  
4 the production of any such Documents that are maintained or stored only in an  
5 electronic format.
- 6 C. The FTC and the Receiver may serve upon parties interrogatories that require  
7 response within five (5) days after the FTC serves such interrogatories;
- 8 D. The FTC and the Receiver may serve subpoenas upon non-parties that direct  
9 production or inspection within five (5) days of service.
- 10 E. Service of discovery upon a party to this action, taken pursuant to this Section, shall  
11 be sufficient if made by facsimile, email, or by overnight delivery.
- 12 F. Any expedited discovery taken pursuant to this Section is in addition to, and is not  
13 subject to, the limits on discovery set forth in the Federal Rules of Civil Procedure  
14 and the Local Rules of this Court. The expedited discovery permitted by this Section  
15 does not require a meeting or conference of the parties, pursuant to Rules 26(d) & (f)  
16 of the Federal Rules of Civil Procedure.
- 17 G. The Parties are exempted from making initial disclosures under Fed. R. Civ. P.  
18 26(a)(1) until further order of this Court.

19 **SERVICE OF THIS ORDER**

20 **XVI. IT IS FURTHER ORDERED** that copies of this Order as well as the Motion for  
21 Temporary Restraining Order and all other pleadings, Documents, and exhibits filed  
22 contemporaneously with that Motion (other than the complaint and summons), may be  
23 served by any means, including facsimile transmission, electronic mail or other electronic  
24 messaging, personal or overnight delivery, U.S. Mail or FedEx, by agents and employees  
25 of the FTC, by any law enforcement agency, or by private process server, upon any  
26 Defendant or any Person (including any financial institution) that may have possession,  
27

1 custody or control of any Asset or Document of any Defendant, or that may be subject to  
2 any provision of this Order pursuant to Rule 65(d)(2) of the Federal Rules of Civil  
3 Procedure. For purposes of this Section, service upon any branch, subsidiary, affiliate or  
4 office of any entity shall effect service upon the entire entity.

5 **CORRESPONDENCE AND SERVICE ON THE FTC**

6 **XXVII. IT IS FURTHER ORDERED** that, for the purpose of this Order, all correspondence  
7 and service of pleadings on the FTC shall be addressed to:

8 Adam M. Wesolowski  
9 Gregory A. Ashe  
10 Federal Trade Commission  
11 600 Pennsylvania Avenue NW  
12 Washington, DC 20850  
13 Telephone: 202-326-3068 (Wesolowski)  
Telephone: 202-326-3719 (Ashe)  
Facsimile: 202-326-3768  
Email: [awesolowski@ftc.gov](mailto:awesolowski@ftc.gov); [gashe@ftc.gov](mailto:gashe@ftc.gov)

14 **PRELIMINARY INJUNCTION HEARING**

15 **XXVIII. IT IS FURTHER ORDERED** that, pursuant to Fed. R. Civ. P. 65(b), Defendants shall  
16 appear before this Court on the 24th day of January, 2018, at  
17 11:00 a.m. at the United States Courthouse, Courtroom <sup>6A</sup>, Las Vegas,  
18 Nevada, to show cause, if there is any, why this Court should not enter a preliminary  
19 injunction, pending final ruling on the Complaint against Defendants, enjoining the  
20 violations of the law alleged in the Complaint, continuing the freeze of their Assets,  
21 continuing the receivership, and imposing such additional relief as may be appropriate.

22 **BRIEFS AND AFFIDAVITS CONCERNING PRELIMINARY INJUNCTION**

23 **XXIX. IT IS FURTHER ORDERED** that:

- 24 A. Defendants shall file with the Court and serve on FTC counsel any answering  
25 pleadings, affidavits, motions, expert reports or declarations, or legal memoranda no  
26 later than four (4) days prior to the order to show cause hearing scheduled pursuant to  
27 this Order. The FTC may file responsive or supplemental pleadings, materials,

1 affidavits, or memoranda with the Court and serve the same on counsel for  
2 Defendants no later than one (1) day prior to the order to show Cause hearing.  
3 Provided that such affidavits, pleadings, motions, expert reports, declarations, legal  
4 memoranda or oppositions must be served by personal or overnight delivery,  
5 facsimile or email, and be received by the other party or parties no later than 5:00  
6 p.m. (PST) on the appropriate dates set forth in this Section.

7 B. An evidentiary hearing on the FTC's request for a preliminary injunction is not  
8 necessary unless Defendants demonstrate that they have, and intend to introduce,  
9 evidence that raises a genuine and material factual issue. The question of whether  
10 this Court should enter a preliminary injunction shall be resolved on the pleadings,  
11 declarations, exhibits, and memoranda filed by, and oral argument of, the parties.  
12 Live testimony shall be heard only on further order of this Court. Any motion to  
13 permit such testimony shall be filed with the Court and served on counsel for the  
14 other parties at least five (5) days prior to the preliminary injunction hearing in this  
15 matter. Such motion shall set forth the name, address, and telephone number of each  
16 proposed witness, a detailed summary or affidavit revealing the substance of each  
17 proposed witness's expected testimony, and an explanation of why the taking of live  
18 testimony would be helpful to this Court. Any papers opposing a timely motion to  
19 present live testimony or to present live testimony in response to another party's  
20 timely motion to present live testimony shall be filed with this Court and served on  
21 the other parties at least three (3) days prior to the order to show cause hearing.

22 C. Provided, however, that service shall be performed by personal or overnight delivery,  
23 facsimile or email, and Documents shall be delivered so that they shall be received by  
24 the other parties no later than 5:00 p.m. (PST) on the appropriate dates provided in  
25 this Section.  
26  
27


**DURATION OF THE ORDER**

**XXX. IT IS FURTHER ORDERED** that this Order shall expire fourteen (14) days from the date of entry noted below, unless within such time, the Order is extended for an additional period pursuant to Fed. R. Civ. P. 65(b)(2).

**RETENTION OF JURISDICTION**

**XXXI. IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this matter for all purposes.

**IT IS SO ORDERED.**

  
\_\_\_\_\_  
**JAMES C. MAHAN**  
UNITED STATES DISTRICT JUDGE

Dated: January 10, 2018, at 11:35 a.m.