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8 UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
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10 FEDERAL TRADE COMMISSION,
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12 Plaintiff,

13 vs.

14 AMERICAN FINANCIAL BENEFITS
CENTER, a corporation, also d/b/a AFB and
AF STUDENT SERVICES; AMERITECH
15 FINANCIAL, a corporation; FINANCIAL
EDUCATION BENEFITS CENTER, a
16 corporation; and BRANDON DEMOND
FRÈRE, individually and as an officer of
17 AMERICAN FINANCIAL BENEFITS
CENTER, AMERITECH FINANCIAL, and
18 FINANCIAL EDUCATION BENEFITS
CENTER,
19

20 Defendants.

Case No. 4:18-cv-00806-SBA

**STIPULATION AND ~~PROPOSED~~
ORDER TO FUND PRE-RECEIVERSHIP
PAYROLL**

JUDGE: Mag. Judge Jacqueline Scott Corley
CTRM.: 15th Floor, Ctrm. F

21 The Preliminary Injunction Order (ECF No. 187, "PI Order") provides "[t]he Receiver
22 shall apply to the Court for prior approval of any payment of any debt or obligation incurred by
23 the Corporate Defendants prior to the date of entry of this Order, except payments that the
24 Receiver deems necessary or advisable to secure Assets of the Corporate Defendants, such as
25 rental payments" (PI order at p. 7 lines 1-4). At the time of the Receiver's appointment, the
26 Corporate Defendants owed payroll for the period 11/19 – 11/29/18. At the Receiver's request,
27 Defendant Frere agreed on December 13 to wire funds back to the Corporate Defendants, so long
28 as the Receiver agreed to use the funds for pre-receivership payroll. The Receiver agreed. At

1 this point, Defendant Frere has forwarded \$83,945.86 to the Receiver for pre-receivership
 2 payroll, which is insufficient to fully fund payroll. Mr. Frere intends to wire more funds when he
 3 is able to access another bank account, but that is not likely to occur until at least Friday,
 4 December 21.

5 The parties agree with the Receiver's application to use the funds returned by Defendant
 6 Frere for pre-receivership payroll. The payroll issued through the Receiver will be limited to
 7 regular pay only, hours worked during the pay period of 11/19 – 11/29/18 at normal hourly rates.
 8 The payroll will not include commissions, bonuses, car and cell phone allowances,
 9 reimbursements or any other forms of compensation. The parties and the Receiver recognize the
 10 need to get at least some of the payroll issued to employees as soon as possible, particularly in
 11 light of the upcoming holidays. As such, the parties and the Receiver request the authority to
 12 issue interim pro-rata distributions. For example, the Receiver will distribute the \$83,945.86 for
 13 payroll as soon as possible on a pro-rata basis. If and when Defendant Frere forwards additional
 14 funds as contemplated, then further pro-rata distributions will be made will be made up to the
 15 point that regular pay is entirely funded.

16 Dated: December 19, 2018

MCNAMARA SMITH LLP¹

17 By: /s/ Sanjay Bhandari
 18 *Attorneys for Court-appointed Receiver,*
Thomas W. McNamara

19 Dated: December 19, 2018

FEDERAL TRADE COMMISSION

20 /s/ Sarah Schroeder
 21 Sarah Schroeder
 22 Roberta Tonelli
 Evan Rose
Attorneys for Plaintiff Federal Trade Commission

23 Dated: December 19, 2018

ROPERS, MAJESKI, KOHN & BENTLEY

24 By: /s/ Nicole S. Healy
 25 *Attorneys for Defendants American Financial*
 26 *Benefits Center, Ameritech Financial, Financial*
Education Benefits Center, and Brandon D. Frere

27 _____
 28 ¹ Pursuant to Civ. L.R. 5-1(i)(3), the filer attests that concurrence in the filing of this document has been obtained from every other signatory listed.

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~~PROPOSED~~ ORDER

Pursuant to the stipulation, the Receiver is authorized to use the \$83,945.86 received from Defendant Frere to pay pre-receivership regular pay, hours worked during the pay period of 11/19 – 11/29/18 at normal hourly rates. In calculating regular pay, the Receiver will not include commissions, bonuses, car and cell phone allowances, reimbursements or any other forms of compensation. The Receiver is authorized to make an immediate interim payroll distribution up to the amount forwarded thus far by Defendant Frere (\$83,945.86). If, and when, the contemplated additional funds are transferred from Defendant Frere, the Receiver is authorized to make additional payroll distributions on a pro rata basis up to the point that regular pay is entirely funded.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: December 21, 2018

By: 
Jacqueline Scott Corley
United States Magistrate Judge