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17 **UNITED STATES DISTRICT COURT**
18 **CENTRAL DISTRICT OF CALIFORNIA**

19 _____) Case No. **SACV 19-1333JVS(KESx)**
20 FEDERAL TRADE COMMISSION,)
21 Plaintiff,) **ORDER ENTERING STIPULATED**
22 vs.) **PRELIMINARY INJUNCTION**
23)
24 ELEGANT SOLUTIONS, INC., et al.,)
25 Defendants.)
26)
27)
28 _____)

1 Plaintiff, the Federal Trade Commission, commenced this civil action on
2 July 8, 2019, pursuant to Sections 13(b) and 19 of the Federal Trade Commission
3 Act (“FTC Act”), 15 U.S.C. § 53(b) and 57(b), and the Telemarketing and
4 Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§
5 6101-6108. On motion by the FTC, this Court entered an *ex parte* Temporary
6 Restraining Order (“TRO”) on July 8, 2019, with an asset freeze, appointment of a
7 receiver, and other equitable relief against the Defendants. The FTC and all
8 Defendants (“Stipulating Defendants”), by and through their Counsel, have
9 stipulated and agreed to the entry of this preliminary injunction order (“Order”).

10 THEREFORE IT IS ORDERED as follows:

11 **FINDINGS OF FACT**

12 By stipulation of the parties, the Court finds as follows:

13 1. The FTC and Stipulating Defendants have stipulated and agreed to the
14 entry of this Order without any admission of wrongdoing or violation of law, and
15 without a finding by the Court of law or fact other than stated below.

16 2. Stipulating Defendants waive all rights to seek judicial review or
17 otherwise challenge or contest the validity of this Order.

18 3. This Court has jurisdiction over the subject matter of this case, and
19 there is good cause to believe that it will have jurisdiction over the parties.

20 4. Venue in this district is proper.

21 5. The activities of Stipulating Defendants are in or affecting commerce,
22 as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

23 6. The FTC asserts that there is good cause to believe that the FTC will
24 ultimately succeed in establishing that Stipulating Defendants have engaged in and
25 are likely to engage in acts or practices that violate Section 5(a) of the FTC Act, 15
26 U.S.C. § 45(a), and the FTC’s Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part
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1 310, and therefore that there is good cause to believe the FTC is likely to prevail on
2 the merits of this action.

3 7. The FTC asserts that there is good cause to believe that immediate and
4 irreparable injury, loss, or damage will result from Defendants' ongoing violations
5 of the FTC Act and the TSR unless Defendants are restrained and enjoined by
6 order of this Court.

7 8. The FTC asserts that there is good cause to believe that immediate and
8 irreparable damage to the Court's ability to grant effective final relief for
9 consumers—including monetary restitution, rescission, disgorgement, or refunds—
10 will occur from the sale, transfer, destruction or other disposition or concealment
11 by Defendants of their assets or records, unless Defendants are immediately
12 restrained and enjoined by order of this Court.

13 9. The FTC asserts that good cause exists for continuing the receivership
14 over the Receivership Entities and continuing the asset freeze imposed pursuant to
15 the TRO issued in this case.

16 10. The FTC asserts that entry of this order is in the public interest.

17 11. Plaintiff FTC is an independent agency of the United States and no
18 security is required of any agency of the United States for issuance of a
19 preliminary injunction. Fed. R. Civ. P. 65(c).

20 **DEFINITIONS**

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

22 A. "**Asset**" or "**Assets**" means any legal or equitable interest in, right to,
23 or claim to, any property, wherever located and by whomever held.

24 B. "**Assisting Others**" includes: (a) performing customer service
25 functions, including receiving or responding to consumer complaints performing
26 customer service functions, including receiving or responding to consumer
27 complaints; (b) formulating or providing, or arranging for the formulation or
28 provision of, any advertising or marketing material, including any telephone sales

1 script, direct mail solicitation, or the design, text, or use of images of any Internet
2 website, email, or other electronic communication; (c) formulating or providing, or
3 arranging for the formulation or provision of, any marketing support material or
4 service, including web or Internet Protocol addresses or domain name registration
5 for any Internet websites, affiliate marketing services, or media placement
6 services; (d) providing names of, or assisting in the generation of, potential
7 customers; (e) performing marketing, billing, payment processing, or payment
8 services of any kind; or (f) acting or serving as an owner, officer, director,
9 manager, or principal of any entity.

10 C. **“Corporate Defendants”** means Elegant Solutions, Inc., also doing
11 business as Federal Direct Group, Trend Capital Ltd., also doing business as
12 Mission Hills Federal, Dark Island Industries, Inc., also doing business as Federal
13 Direct Group and Cosmopolitan Funding Inc., Heritage Asset Management, Inc.,
14 also doing business as National Secure Processing, Tribune Management, Inc., also
15 doing business as the Student Loan Group, and each of their subsidiaries, affiliates,
16 successors, and assigns.

17 D. **“Debt Relief Service”** means any program or service represented,
18 directly or by implication, to renegotiate, settle, or in any way alter the terms of
19 payment or other terms of the debt between a person and one or more unsecured
20 creditors or debt collectors, including, but not limited to, a reduction in the balance,
21 interest rate, or fees owed by a person to an unsecured creditor or debt collector.

22 E. **“Defendant(s)”** means Corporate Defendants and Individual
23 Defendants, individually, collectively, or in any combination.

24 F. **“Document”** is synonymous in meaning and equal in scope to the
25 usage of “document” and “electronically stored information” in Fed. R. Civ. P.
26 34(a), and includes writings, drawings, graphs, charts, photographs, sound and
27 video recordings, images, Internet sites, web pages, websites, electronic
28 correspondence, including e-mail and instant messages, contracts, accounting data,

1 advertisements, FTP Logs, Server Access Logs, books, written or printed records,
2 handwritten notes, telephone logs, telephone scripts, receipt books, ledgers,
3 personal and business canceled checks and check registers, bank statements,
4 appointment books, computer records, customer or sales databases and any other
5 electronically stored information, including Documents located on remote servers
6 or cloud computing systems, and other data or data compilations from which
7 information can be obtained directly or, if necessary, after translation into a
8 reasonably usable form. A draft or non-identical copy is a separate document
9 within the meaning of the term.

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

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

18 I. **“Individual Defendants”** mean Mazen Radwan, Rima Radwan, and
19 Dean Robbins, by whatever names they may be known.

20 J. **“Person”** means a natural person, organization, or other legal entity,
21 including a corporation, partnership, proprietorship, association, cooperative, or
22 any other group or combination acting as an entity.

23 K. **“Receiver”** means the temporary receiver appointed in Section XII of
24 this Order and any deputy receivers that shall be named by the Receiver.

25 L. **“Receivership Entities”** means Corporate Defendants as well as any
26 other entity that has conducted any business related to Defendants’ marketing of
27 Debt Relief Services, including receipt of Assets derived from any activity that is
28 the subject of the Complaint in this matter, and that the Receiver determines is

1 controlled or owned by any Defendant.

2 M. “**Seller**” means any person who, in connection with a Telemarketing
3 transaction, provides, offers to provide, or arranges for others to provide goods or
4 services to the customer in exchange for consideration.

5 N. “**Stipulating Defendants**” means all Defendants, and each of
6 Defendants’ subsidiaries, affiliates, successors, and assigns.

7 O. “**Telemarketer**” means any person who, in connection with
8 telemarketing, initiates or receives telephone calls to or from a customer or donor.
9 16 C.F.R. § 310.2(cc).

10 P. “**Telemarketing**” means a plan, program, or campaign (whether or
11 not covered by the TSR, 16 C.F.R. Part 310) that is conducted to induce the
12 purchase of goods or services or a charitable contribution by use of one or more
13 telephones.

14 **I. PROHIBITION ON DECEPTIVE REPRESENTATIONS**

15 **IT IS THEREFORE ORDERED** that Stipulating Defendants, their
16 officers, agents, employees, and attorneys, and all other persons in active concert
17 or participation with them, who receive actual notice of this Order by personal
18 service or otherwise, whether acting directly or indirectly, in connection with the
19 advertising, marketing, promoting, or offering for sale of any Debt Relief Service,
20 are preliminarily restrained and enjoined from:

21 A. misrepresenting or assisting others in misrepresenting, expressly or by
22 implication any material fact, including, but not limited to:

- 23 1. that consumers who purchase Defendants’ debt relief services
24 will be enrolled in a repayment plan that will reduce their
25 monthly payments to a lower, specific amount or have or their
26 loan balances forgiven in whole or in part;
- 27 2. that most or all of consumers’ monthly payments to Defendants
28 will be applied towards consumers’ student loans;

1 3. that Defendants will assume responsibility for the servicing of
2 consumers' student loans; and

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

11 **II. PROHIBITION ON COLLECTION OF ADVANCE FEES**

12 **IT IS FURTHER ORDERED** that Stipulating Defendants, their officers,
13 agents, employees, and those persons or entities in active concert or participation
14 with any of them who receive actual notice of this Order, whether acting directly or
15 indirectly, are hereby restrained and enjoined from:

16 A. providing, offering to provide, or arranging for others to provide any
17 Debt Relief Service and requesting or receiving payment of any fees or
18 consideration for any Debt Relief Service, until and unless:

- 19 1. the seller or telemarketer has renegotiated, settled, reduced, or
20 otherwise altered the terms of at least one debt pursuant to a
21 settlement agreement, debt management plan, or other such
22 valid contractual agreement executed by the customer;
- 23 2. the customer has made at least one payment pursuant to that
24 settlement agreement, debt management plan, or other valid
25 contractual agreement between the customer and the creditor or
26 debt collector; and
- 27
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1 3. to the extent that debts enrolled in a service are renegotiated,
2 settled, reduced, or otherwise altered individually, the fee or
3 consideration either:

4 a. bears the same proportional relationship to the total fee
5 for renegotiating, settling, reducing, or altering the terms
6 of the entire debt balance as the individual debt amount
7 bears to the entire debt amount. The individual debt
8 amount and the entire debt amount are those owed at the
9 time the debt was enrolled in the service; or

10 b. is a percentage of the amount saved as a result of the
11 renegotiation, settlement, reduction, or alteration. The
12 percentage charged cannot change from one individual
13 debt to another. The amount saved is the difference
14 between the amount owed at the time the debt was
15 enrolled in the service and the amount actually paid to
16 satisfy the debt.

17 **III. PROHIBITION ON RELEASE OF CUSTOMER INFORMATION**

18 **IT IS FURTHER ORDERED** that Stipulating Defendants, their officers,
19 agents, employees, and attorneys, and all other Persons in active concert or
20 participation with any of them, who receive actual notice of this Order, whether
21 acting directly or indirectly, are hereby preliminarily restrained and enjoined from:

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

27 B. Benefitting from or using the name, address, birth date, telephone
28 number, email address, credit card number, bank account number, Social Security

1 number, or other financial or identifying information of any person that any
2 Defendant obtained in connection with any activity that pertains to the subject
3 matter of this Order.

4 *Provided, however,* that Stipulating Defendants may disclose such
5 identifying information to a law enforcement agency, as required by any law,
6 regulation, or court order, or in any filings, pleadings or discovery in this action in
7 the manner required by the Federal Rules of Civil Procedure and by any protective
8 order in the case.

9 **IV. ASSET FREEZE**

10 **IT IS FURTHER ORDERED** that Stipulating Defendants, their officers,
11 agents, employees, and attorneys, and all other persons in active concert or
12 participation with any of them, who receive actual notice of this Order, whether
13 acting directly or indirectly, are hereby preliminarily restrained and enjoined from:

14 A. Transferring, liquidating, converting, encumbering, pledging, loaning,
15 selling, concealing, dissipating, disbursing, assigning, relinquishing, spending,
16 withdrawing, granting a lien or security interest or other interest in, or otherwise
17 disposing of any Assets, wherever located, including outside the United States, that
18 are:

- 19 1. owned or controlled, directly or indirectly, by any Defendant,
20 including, but not limited to those for which a Defendant is a
21 signatory on the account;
- 22 2. held, in part or in whole, for the benefit of any Defendant;
- 23 3. in the actual or constructive possession of any Defendant; or
- 24 4. owned or controlled by, in the actual or constructive possession
25 of, or otherwise held for the benefit of, any corporation,
26 partnership, asset protection trust, or other entity that is directly
27 or indirectly owned, managed or controlled by any Defendant,
28 including any Assets that are held by or for any Defendant in

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any account at any Financial Institution, whether within or without the territorial United States, or with any credit card processing agent, automated clearing house processor, network transaction processor, bank debit processing agent, customer service agent, commercial mail receiving agency, mail holding or forwarding company, credit union, retirement fund custodian, money market or mutual fund, or storage company, including but not limited to the following accounts:

| Bank | Acct. Name or Merchant Name | Acct or Merchant ID Last Four Digits |
|----------------------|---|---|
| Bank of the West | Trend Capital, Ltd. | 9337 |
| Bank of the West | Trend Capital, Ltd. | 8715 |
| Bank of the West | Trend Capital, Ltd. | 8836 |
| Bank of the West | Trend Capital, Ltd. | 8844 |
| Comerica Bank | Dark Island Industries, Inc. DBA Radwan Classic Cars and RCC and RCC Motors | 4682 |
| Comerica Bank | Dark Island Industries, Inc. DBA Radwan Classic Cars and RCC and RCC Motors | 5790 |
| Wells Fargo Bank | Elegant Solutions, Inc. | 2938 |
| Wells Fargo Bank | Elegant Solutions, Inc. | 9116 |
| Wells Fargo Bank | Elegant Solutions, Inc. | 9108 |
| Citibank | Heritage Asset Management, Inc. | 9357 |
| Florida Capital Bank | Merchant name: EDU Student Loan | 7277 |
| Florida Capital Bank | Merchant name: FDG Student Loan | 7645 |
| CalWest Bank | Trend Capital, Ltd. | 6328 |
| CalWest Bank | Trend Capital, Ltd. | 6336 |

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

C. Incurring charges or cash advances on any credit, debit, or ATM card issued in the name, individually or jointly, of any Corporate Defendant or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by any Defendant or of which any Defendant is an officer, director, member, or manager. This includes any corporate bankcard or corporate credit

1 card account for which any Defendant is, or was on the date that this Order was
2 signed, an authorized signor; or

3 D. Cashing any checks or depositing or processing any payments
4 received from consumers, clients, or customers of any Defendant.

5 E. Incurring liens or encumbrances on real property, personal property,
6 or other Assets in the name, singly or jointly, of Corporate Defendants or of any
7 corporation, partnership, or other entity directly or indirectly owned, managed, or
8 controlled by any Defendant.

9 The Assets affected by this Section shall include: (1) all Assets of
10 Stipulating Defendants as of the time this Order is entered; (2) Assets obtained by
11 Stipulating Defendants after this Order is entered if those Assets are derived from
12 any activity that is the subject of the Complaint in this matter or that is prohibited
13 by this Order. This Section does not prohibit any transfers to the Receiver or
14 repatriation of foreign Assets specifically required by this Order.

15 **V. DUTIES OF ASSET HOLDERS AND OTHER THIRD PARTIES**

16 **IT IS FURTHER ORDERED** that any Financial Institution, Electronic
17 Data Host, credit card processor, payment processor, merchant bank, acquiring
18 bank, independent sales organization, third party processor, payment gateway,
19 insurance company, business entity, or person who receives actual notice of this
20 Order (by service or otherwise) and that (a) has held, controlled, or maintained
21 custody, through an account or otherwise, of any Document on behalf of any
22 Defendant or any Asset that has been owned or controlled, directly or indirectly, by
23 any Defendant; held, in part or in whole, for the benefit of any Defendant; in the
24 actual or constructive possession of any Defendant; or owned or controlled by, in
25 the actual or constructive possession of, or otherwise held for the benefit of, any
26 corporation, partnership, asset protection trust, or other entity that is directly or
27 indirectly owned, managed, or controlled by any Defendant; (b) has held,
28 controlled, or maintained custody, through an account or otherwise, of any

1 Document or Asset associated with accounts, credits, debits, or charges made on
2 behalf of any Defendant, including reserve funds held by payment processors,
3 credit card processors, merchant banks, acquiring banks, independent sales
4 organizations, third party processors, payment gateways, insurance companies, or
5 other entities; or (c) has extended credit to any Defendant, including through a
6 credit card account, shall:

7 A. Hold, preserve, and retain within its control and prohibit the
8 withdrawal, removal, alteration, assignment, transfer, pledge, encumbrance,
9 disbursement, dissipation, relinquishment, conversion, sale, or other disposal of
10 any such Document or Asset, as well as all Documents or other property related to
11 such Assets, except by further order of this Court; provided, however, that this
12 provision does not prohibit an Individual Defendants from incurring charges on a
13 personal credit card established prior to entry of this Order, up to the pre-existing
14 credit limit;

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

18 C. Provide Plaintiff's counsel and the Receiver, within three (3) business
19 days of receiving a copy of this Order, a sworn statement setting forth, for each
20 Asset or account covered by this Section:

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

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

5 D. Upon the request of Plaintiff's counsel or the Receiver, promptly
6 provide Plaintiff's counsel and the Receiver with copies of all records or other
7 Documents pertaining to any account covered by this Section or Asset, including
8 originals or copies of account applications, account statements, signature cards,
9 emails, checks, drafts, deposit tickets, transfers to and from the accounts, including
10 wire transfers and wire transfer instructions, all other debit and credit instruments
11 or slips, currency transaction reports, 1099 forms, and all logs and records
12 pertaining to safe deposit boxes, commercial mail boxes, and storage facilities.
13 Provided, however, that this Section does not prohibit any transfers to the Receiver
14 or repatriation of foreign Assets specifically required by this Order.

15 **VI. FINANCIAL DISCLOSURES**

16 **IT IS FURTHER ORDERED** that Stipulating Defendants, to the extent
17 they have not each done so pursuant to the TRO, within three (3) days of service of
18 this Order upon it, shall prepare and deliver to Plaintiff's counsel and the Receiver
19 (1) completed financial statements on the forms attached to this Order as
20 **Attachment A** (Financial Statement of Individual Defendant) for each Individual
21 Defendant, and **Attachment B** (Financial Statement of Corporate Defendant) for
22 each Corporate Defendant and (2) completed **Attachment C** (IRS Form 4506,
23 Request for Copy of a Tax Return) for each Individual and Corporate Defendant.

24 **VII. FOREIGN ASSET REPATRIATION**

25 **IT IS FURTHER ORDERED** that, to the extent not already done pursuant
26 to the TRO, within five (5) days following the service of this Order, Stipulating
27 Defendants shall:
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1 A. Provide Plaintiff's counsel and the Receiver with a full accounting,
2 verified under oath and accurate as of the date of this Order, of all Assets,
3 Documents, and accounts outside of the United States which are: (1) titled in the
4 name, individually or jointly, of any Stipulating Defendant; (2) held by any person
5 for the benefit of any Stipulating Defendant or for the benefit of, any corporation,
6 partnership, asset protection trust, or other entity that is directly or indirectly
7 owned, managed, or controlled by any Stipulating Defendant; or (3) under the
8 direct or indirect control, whether jointly or singly, of any Stipulating Defendant;

9 B. Take all steps necessary to provide Plaintiff's counsel and Receiver
10 access to all Documents and records that may be held by third parties located
11 outside of the territorial United States of America, including signing the Consent to
12 Release of Financial Records appended to this Order as **Attachment D**.

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

21 D. The same business day as any repatriation, (1) notify the Receiver and
22 counsel for Plaintiff of the name and location of the Financial Institution or other
23 entity that is the recipient of such Documents or Assets; and (2) serve this Order on
24 any such Financial Institution or other entity.

25 **VIII. NON-INTERFERENCE WITH REPATRIATION**

26 **IT IS FURTHER ORDERED** that Stipulating Defendants, their officers,
27 agents, employees, and attorneys, and all other Persons in active concert or
28 participation with any of them, who receive actual notice of this Order, whether

1 acting directly or indirectly, are hereby preliminarily restrained and enjoined from
2 taking any action, directly or indirectly, which may result in the encumbrance or
3 dissipation of foreign Assets, or in the hindrance of the repatriation required by this
4 Order, including, but not limited to:

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

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

14 **IX. CONSUMER CREDIT REPORTS**

15 **IT IS FURTHER ORDERED** that Plaintiff may obtain credit reports
16 concerning any Stipulating Defendant pursuant to Section 604(a)(1) of the Fair
17 Credit Reporting Act, 15 U.S.C. 1681b(a)(1), and that, upon written request, any
18 credit reporting agency from which such reports are requested shall provide them
19 to Plaintiff.

20 **X. PRESERVATION OF RECORDS**

21 **IT IS FURTHER ORDERED** that Stipulating Defendants, and their
22 officers, agents, employees, and attorneys, and all other Persons in active concert
23 or participation with any of them, who receive actual notice of this Order, whether
24 acting directly or indirectly, are hereby preliminarily restrained and enjoined from:

25 A. Destroying, erasing, falsifying, writing over, mutilating, concealing,
26 altering, transferring, or otherwise disposing of, in any manner, directly or
27 indirectly, Documents that relate to: (1) the business, business practices, Assets, or
28 business or personal finances of any Defendant; (2) the business practices or

1 finances of entities directly or indirectly under the control of any Defendant; or (3)
2 the business practices or finances of entities directly or indirectly under common
3 control with any other Defendant; and

4 B. Failing to create and maintain Documents that, in reasonable detail,
5 accurately, fairly, and completely reflect Stipulating Defendants' incomes,
6 disbursements, transactions, and use of Stipulating Defendants' Assets.

7 **XI. REPORT OF NEW BUSINESS ACTIVITY**

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

20 **XII. TEMPORARY RECEIVER**

21 **IT IS FURTHER ORDERED** that **Thomas W. McNamara** shall continue
22 to serve as Receiver for the business activities of the Receivership Entities with the
23 full power of an equity receiver. The Receiver shall solely be the agent of this
24 Court in acting as Receiver under this Order.

25 **XIII. DUTIES AND AUTHORITY OF RECEIVER**

26 **IT IS FURTHER ORDERED** that the Receiver is directed and authorized
27 to accomplish the following:
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1 A. Assume full control of Receivership Entities by removing, as the
2 Receiver deems necessary or advisable, any director, officer, independent
3 contractor, employee, attorney, or agent of any Receivership Entity from control
4 of, management of, or participation in, the affairs of the Receivership Entity;

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

8 C. Take exclusive custody, control, and possession of all Documents or
9 Assets associated with credits, debits, or charges make on behalf of any
10 Receivership Entity, wherever situated, including reserve funds held by payment
11 processors, credit card processors, merchant banks, acquiring banks, independent
12 sales organizations, third party processors, payment gateways, insurance
13 companies, or other entities;

14 D. Conserve, hold, manage, and prevent the loss of all Assets of the
15 Receivership Entities, and perform all acts necessary or advisable to preserve the
16 value of those Assets. The Receiver shall assume control over the income and
17 profits therefrom and all sums of money now or hereafter due or owing to the
18 Receivership Entities. The Receiver shall have full power to sue for, collect, and
19 receive, all Assets of the Receivership Entities and of other persons or entities
20 whose interests are now under the direction, possession, custody, or control of, the
21 Receivership Entities. *Provided, however,* that the Receiver shall not attempt to
22 collect any amount from a consumer if the Receiver believes the consumer's debt
23 to the Receivership Entities has resulted from the deceptive acts or practices or
24 other violations of law alleged in the Complaint in this matter, without prior Court
25 approval;

26 E. Obtain, conserve, hold, manage, and prevent the loss of all Documents
27 of the Receivership Entities, and perform all acts necessary or advisable to
28 preserve such Documents. The Receiver shall: divert mail; preserve all

1 Documents of the Receivership Entities that are accessible via electronic means
2 such as online access to financial accounts and access to electronic documents held
3 onsite or by Electronic Data Hosts, by changing usernames, passwords or other
4 log-in credentials; take possession of all electronic Documents of the Receivership
5 Entities stored onsite or remotely; take whatever steps necessary to preserve all
6 such Documents; and obtain the assistance of the FTC's Digital Forensic Unit for
7 the purpose of obtaining electronic documents stored onsite or remotely;

8 F. Choose, engage, and employ attorneys, accountants, appraisers, and
9 other independent contractors and technical specialists, as the Receiver deems
10 advisable or necessary in the performance of duties and responsibilities under the
11 authority granted by this Order, including, but not limited to, McNamara Smith
12 LLP, the law firm in which the Receiver is a partner;

13 G. Make payments and disbursements from the receivership estate that
14 are necessary or advisable for carrying out the directions of, or exercising the
15 authority granted by, this Order, and to incur, or authorize the making of, such
16 agreements as may be necessary and advisable in discharging his or her duties as
17 Receiver. The Receiver shall apply to the Court for prior approval of any payment
18 of any debt or obligation incurred by the Receivership Entities prior to the date of
19 entry of this Order, except payments that the Receiver deems necessary or
20 advisable to secure Assets of the Receivership Entities, such as rental payments;

21 H. Take all steps necessary to secure and take exclusive custody of each
22 location from which the Receivership Entities operate their businesses. Such steps
23 may include, but are not limited to, any of the following, as the Receiver deems
24 necessary or advisable: (1) securing the location by changing the locks and alarm
25 codes and disconnecting any internet access or other means of access to the
26 computers, servers, internal networks, or other records maintained at that location;
27 and (2) requiring any persons present at the location to leave the premises, to
28 provide the Receiver with proof of identification, and/or to demonstrate to the

1 satisfaction of the Receiver that such persons are not removing from the premises
2 Documents or Assets of the Receivership Entities. Law enforcement personnel,
3 including, but not limited to, police or sheriffs, may assist the Receiver in
4 implementing these provisions in order to keep the peace and maintain security. If
5 requested by the Receiver, the United States Marshal will provide appropriate and
6 necessary assistance to the Receiver to implement this Order and is authorized to
7 use any necessary and reasonable force to do so;

8 I. Take all steps necessary to prevent the modification, destruction, or
9 erasure of any web page or website registered to and operated, in whole or in part,
10 by any Defendants, and to provide access to all such web page or websites to
11 Plaintiff's representatives, agents, and assistants, as well as Defendants and their
12 representatives;

13 J. Enter into and cancel contracts and purchase insurance as advisable or
14 necessary;

15 K. Prevent the inequitable distribution of Assets and determine, adjust,
16 and protect the interests of consumers who have transacted business with the
17 Receivership Entities;

18 L. Make an accounting, as soon as practicable, of the Assets and
19 financial condition of the receivership and file the accounting with the Court and
20 deliver copies thereof to all parties;

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

1 N. Issue subpoenas to obtain Documents and records pertaining to the
2 Receivership, and conduct discovery in this action on behalf of the receivership
3 estate;

4 O. Open one or more bank accounts at designated depositories for funds
5 of the Receivership Entities. The Receiver shall deposit all funds of the
6 Receivership Entities in such designated accounts and shall make all payments and
7 disbursements from the receivership estate from such accounts. The Receiver shall
8 serve copies of monthly account statements on all parties;

9 P. Maintain accurate records of all receipts and expenditures incurred as
10 Receiver;

11 Q. Allow the Plaintiff's representatives, agents, and assistants, as well as
12 Stipulating Defendants' representatives and Stipulating Defendants themselves,
13 reasonable access to the premises of the Receivership Entities, or any other
14 premises where the Receivership Entities conduct business. The purpose of this
15 access shall be to inspect and copy any and all books, records, Documents,
16 accounts, and other property owned by, or in the possession of, the Receivership
17 Entities or their agents. The Receiver shall have the discretion to determine the
18 time, manner, and reasonable conditions of such access;

19 R. Allow the Plaintiff's representatives, agents, and assistants, as well as
20 Stipulating Defendants and their representatives reasonable access to all
21 Documents in the possession, custody, or control of the Receivership Entities;

22 S. Cooperate with reasonable requests for information or assistance from
23 any state or federal civil or criminal law enforcement agency;

24 T. Suspend business operations of the Receivership Entities if in the
25 judgment of the Receiver such operations cannot be continued legally and
26 profitably;

27 U. If the Receiver identifies a nonparty entity as a Receivership Entity,
28 promptly notify the entity as well as the parties, and inform the entity that it can

1 challenge the Receiver's determination by filing a motion with the Court.
2 Provided, however, that the Receiver may delay providing such notice until the
3 Receiver has established control of the nonparty entity and its Assets and records,
4 if the Receiver determines that notice to the entity may result in the destruction of
5 records, dissipation of Assets, or any other obstruction of the Receiver's control of
6 the entity; and

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

15 **XIV. TRANSFER OF RECEIVERSHIP PROPERTY TO RECEIVER**

16 **IT IS FURTHER ORDERED** that, to the extent not already done so
17 pursuant to the TRO, Stipulating Defendants and any other person with possession,
18 custody, or control of property of, or records relating to, the Receivership Entities
19 shall, upon notice of this Order by personal service or otherwise, fully cooperate
20 with and assist the Receiver in taking and maintaining possession, custody, or
21 control of the Assets and Documents of the Receivership Entities and immediately
22 transfer or deliver to the Receiver possession, custody, and control of the
23 following:

- 24 A. All Assets held by or for the benefit of the Receivership Entities;
25 B. All Documents or Assets associated with credits, debits, or charges
26 made on behalf of any Receivership Entity, wherever situated, including reserve
27 funds held by payment processors, credit card processors, merchant banks, acquiring
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1 banks, independent sales organizations, third party processors, payment gateways,
2 insurance companies, or other entities;

3 C. All Documents of or pertaining to the Receivership Entities;

4 D. All computers, electronic devices, mobile devices and machines used
5 to conduct the business of the Receivership Entities;

6 E. All Assets and Documents belonging to other persons or entities
7 whose interests are under the direction, possession, custody, or control of the
8 Receivership Entities; and

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

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

18 **XV. PROVISION OF INFORMATION TO RECEIVER**

19 **IT IS FURTHER ORDERED** that, to the extent not already done so
20 pursuant to the TRO, Stipulating Defendants shall immediately provide to the
21 Receiver:

22 A. A list of all Assets and accounts of the Receivership Entities that are
23 held in any name other than the name of a Receivership Entity, or by any person
24 other than a Receivership Entity; and

25 B. A list of all agents, employees, officers, attorneys, servants, and those
26 persons in active concert and participation with the Receivership Entities, or who
27 have been associated with or done business with the Receivership Entities; and
28

1 C. A description of any Documents covered by attorney-client privilege
2 or attorney work product, including files where such Documents are likely to be
3 located, authors or recipients of such documents, and search terms likely to
4 identify such electronic documents.

5 **XVI. COOPERATION WITH THE RECEIVER**

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

21 **XVII. NON-INTERFERENCE WITH THE RECEIVER**

22 **IT IS FURTHER ORDERED** that Stipulating Defendants, their officers,
23 agents, employees, attorneys, and all other persons in active concert or
24 participation with any of them, who receive actual notice of this Order, and any
25 other person served with a copy of this Order, are hereby restrained and enjoined
26 from directly or indirectly:

27 A. Interfering with the Receiver's efforts to manage, or take custody,
28 control, or possession of, the Assets or Documents subject to the receivership;

1 B. Transacting any of the business of the Receivership Entities;

2 C. Transferring, receiving, altering, selling, encumbering, pledging,
3 assigning, liquidating, or otherwise disposing of any Assets owned, controlled, or
4 in the possession or custody of, or in which an interest is held or claimed by, the
5 Receivership Entities; or

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

9 **XVIII. STAY OF ACTIONS**

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

20 A. Filing or assisting in the filing of a petition for relief under the
21 Bankruptcy Code, 11 U.S.C. § 101 *et seq.*, or of any similar insolvency proceeding
22 on behalf of the Receivership Entities;

23 B. Commencing, prosecuting, or continuing a judicial, administrative, or
24 other action or proceeding against the Receivership Entities, including the issuance
25 or employment of process against the Receivership Entities, except that such
26 actions may be commenced if necessary to toll any applicable statute of
27 limitations; or
28

1 C. Filing or enforcing any lien on any Asset of the Receivership Entities,
2 taking or attempting to take possession, custody, or control of any Asset of the
3 Receivership Entities, attempting to foreclose, forfeit, alter, or terminate any
4 interest in any Asset of the Receivership Entities, whether such acts are part of a
5 judicial proceeding, are acts of self-help, or otherwise.

6 *Provided, however,* that this Order does not stay: (1) the commencement or
7 continuation of a criminal action or proceeding; (2) the commencement or
8 continuation of an action or proceeding by a governmental unit to enforce such
9 governmental unit's police or regulatory power; or (3) the enforcement of a
10 judgment, other than a money judgment, obtained in an action or proceeding by a
11 governmental unit to enforce such governmental unit's police or regulatory power.

12 **XIX. COMPENSATION OF RECEIVER**

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

23 **XX. RECEIVER'S BOND**

24 **IT IS FURTHER ORDERED** that the bond in the sum of **\$25,000**
25 previously filed by the Receiver with the Clerk of this Court shall remain in effect,
26 conditioned that the Receiver will well and truly perform the duties of the office
27 and abide by and perform all acts the Court directs. 28 U.S.C. § 754.

1 **XXI. DISTRIBUTION OF ORDER BY STIPULATING DEFENDANTS**

2 **IT IS FURTHER ORDERED** that Stipulating Defendants shall
3 immediately provide a copy of this Order to each affiliate, telemarketer, marketer,
4 sales entity, successor, assign, member, officer, director, employee, agent,
5 independent contractor, attorney, spouse, former spouse, subsidiary, division, and
6 representative of Stipulating Defendants and any company owned or controlled by
7 Stipulating Defendants, and shall, to the extent no already done so pursuant to the
8 TRO, within three (3) calendar days from the date of entry of this Order provide
9 Plaintiff and the Receiver with a sworn statement that this provision of the Order
10 has been satisfied, which statement shall include the names, physical addresses,
11 phone number, and email addresses of each such person who received a copy of
12 the Order. Furthermore, Stipulating Defendants shall not take any action that
13 would encourage officers, agents, members, directors, employees, salespersons,
14 independent contractors, attorneys, subsidiaries, affiliates, successors, assigns or
15 other persons or entities in active concert or participation with them to disregard
16 this Order or believe that they are not bound by its provisions.

17 **XXII. LIMITED EXPEDITED DISCOVERY**

18 **IT IS FURTHER ORDERED** that, notwithstanding the provisions of the
19 Fed. R. Civ. P. 26(d) and (f) and 30(a)(2)(c), and pursuant to Fed. R. Civ. P. 30(a),
20 34, and 45, Plaintiff and the Receiver are granted leave, from any time after service
21 of this Order until a Rule 16(b) scheduling order is issued, to conduct limited
22 expedited discovery for the purpose of discovering: (1) the nature, location, status,
23 and extent of Stipulating Defendants' Assets; (2) the nature, location, identity of
24 participants and extent of Stipulating Defendants' business transactions and
25 operations; (3) Documents reflecting Stipulating Defendants' business transactions
26 and operations; or (4) compliance with this Order. The limited expedited
27 discovery set forth in this Section shall proceed as follows:
28

1 A. Plaintiff and the Receiver may take the deposition of parties and non-
2 parties. Forty-eight (48) hours' notice shall be sufficient notice for such
3 depositions. The limitations and conditions set forth in Fed. R. Civ. P. 30(a)(2)(B)
4 and 31(a)(2)(B) regarding subsequent depositions of an individual shall not apply
5 to depositions taken pursuant to this Section. Any such deposition taken pursuant
6 to this Section shall not be counted towards the deposition limit set forth in Rules
7 30(a)(2)(A) and 31(a)(2)(A) and depositions may be taken by telephone or other
8 remote electronic means;

9 B. Plaintiff and the Receiver may serve upon parties requests for
10 production of Documents or inspection that require production or inspection within
11 five (5) days of service, *provided, however*, that three (3) days of notice shall be
12 deemed sufficient for the production of any such Documents that are maintained or
13 stored in an electronic format.

14 C. Plaintiff and the Receiver may serve upon parties interrogatories that
15 require response within five (5) days after service of such interrogatories;

16 D. Plaintiff and the Receiver may serve subpoenas upon non-parties that
17 direct production or inspection within five (5) days of service.

18 E. Service of discovery upon a party to this action, taken pursuant to this
19 Section, shall be sufficient if made by facsimile, email, or by overnight delivery.

20 F. Any expedited discovery taken pursuant to this Section is in addition
21 to, and is not subject to, the limits on discovery set forth in the Federal Rules of
22 Civil Procedure and the Local Rules of this Court. The expedited discovery
23 permitted by this Section does not require a meeting or conference of the parties,
24 pursuant to Fed. R. Civ. P. 26(d) & (f).

25 G. The Parties are exempted from making initial disclosures under Fed.
26 R. Civ. P. 26(a)(1) until further order of this Court.

1 **XXIII. SERVICE OF THIS ORDER**

2 **IT IS FURTHER ORDERED** that copies of this Order may be served by
3 any means, including facsimile transmission, electronic mail or other electronic
4 messaging, personal or overnight delivery, U.S. Mail or FedEx, by agents and
5 employees of Plaintiff, by any law enforcement agency, or by private process
6 server, upon Stipulating Defendants or any Person (including any financial
7 institution) that may have possession, custody, or control of any Asset or
8 Document of any Defendant, or that may be subject to any provision of this Order
9 pursuant to Fed. R. Civ. P. 65(d)(2). For purposes of this Section, service upon
10 any branch, subsidiary, affiliate or office of any entity shall effect service upon the
11 entire entity.

12 **XXIV. CORRESPONDENCE AND SERVICE ON PLAINTIFF**

13 **IT IS FURTHER ORDERED** that, for the purpose of this Order,
14 Stipulating Defendants shall serve all pleadings or other documents related to this
15 Order, or Plaintiff's application for a preliminary injunction by (1) email at
16 mgrajales@ftc.gov and sjacobson@ftc.gov; and (2) facsimile transmission to (202)
17 326-3768, or by hand delivery or overnight shipment via third-party carrier to the
18 offices of:

19 K. Michelle Grajales
20 Federal Trade Commission
21 600 Pennsylvania Ave., NW, CC-10232
Washington, DC 20580

22 **XXV. DURATION OF THE ORDER**

23 **IT IS FURTHER ORDERED** that this Order shall expire upon entry of a
24 final judgment in this case.
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XXVI. RETENTION OF JURISDICTION

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

SO ORDERED:

Dated: July 17, 2019 at 3:48 p.m.



HON. JAMES V. SELNA
UNITED STATES DISTRICT JUDGE