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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Federal Trade Commission,

Plaintiff,

vs.

Blue Saguaro Marketing, LLC, et al.,

Defendants.

No. CV-16-03406-PHX-SPL

**PRELIMINARY INJUNCTION ORDER
WITH ASSET FREEZE,
APPOINTMENT OF RECEIVER,
LIMITED EXPEDITED DISCOVERY,
AND OTHER EQUITABLE RELIEF AS
TO BLUE SAGUARO MARKETING,
LLC, MARKETINGWAYS.COM, LLC,
MAX RESULTS MARKETING, LLC
AND ORO CANYON MARKETING II,
LLC**

Plaintiff, the Federal Trade Commission (“FTC”), pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108, has filed a complaint to obtain temporary, preliminary, and permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and FTC’s Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310, and has applied for a preliminary injunction order pursuant to Rule 65(a) of the Federal Rules of Civil Procedure.

On October 11, 2016, the Court issued its *Ex Parte* Temporary Restraining Order With Asset Freeze, Appointment of Receiver, Limited Expedited Discovery, and Other Equitable Relief (“TRO”). (Doc. 22.) Returns of service were filed by the FTC via ECF.

1 (Docs. 25-30, 32, and 37.) On October 18, 2016, the Court issued an Order setting the
2 preliminary injunction hearing for October 25, 2016. (Doc. 53.)

3 Having considered the parties' pleadings, papers, and argument, the Court hereby
4 **GRANTS** the FTC's application for a preliminary injunction against Non-Stipulating
5 Defendants (Doc. 53) as follows.

6 **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

7 This Court, having considered the FTC's Complaint, *ex parte* motion for TRO and
8 supporting papers, supplemental filing in support of the issuance of a preliminary
9 injunction, and the evidence presented, finds that:

10 1. This Court has jurisdiction over the subject matter of this case, and there is
11 good cause to believe it will have jurisdiction over all parties hereto;

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

13 3. On October 6, 2016, the FTC filed its Complaint; Memorandum in Support
14 of FTC's *Ex Parte* Motion for TRO; and related papers (Docs. 1-10);

15 4. On October 11, 2016, the Court entered the TRO (Doc. 22);

16 5. The TRO and all related papers were served on all Defendants (Docs. 25-
17 30, 32, and 37);

18 6. Defendants have not filed any papers opposing the entry of this Preliminary
19 Injunction;

20 7. There is good cause to believe that Non-Stipulating Defendants have
21 engaged, and are likely to continue to engage, in acts or practices that violate Section 5(a)
22 of the FTC Act, 15 U.S.C. § 45(a), and the TSR, 16 C.F.R. §§ 310.3(a)(2)(iii) and
23 310.3(a)(4), including but not limited to falsely and misleadingly representing, directly or
24 indirectly, expressly or by implication that consumers who pay Defendants upfront fees
25 will, or are likely to, receive government and corporate grants;

26 8. There is good cause to believe that immediate and irreparable harm will
27 result from Non-Stipulating Defendants' ongoing violations of Section 5(a) of the FTC
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1 Act and the TSR unless Non-Stipulating Defendants are restrained and enjoined by Order
2 of this Court;

3 9. There is good cause to believe that the Court's ability to grant effective
4 final relief for consumers in the form of monetary restitution and disgorgement of ill-
5 gotten gains will suffer immediate and irreparable damage from the Non-Stipulating
6 Defendants' transfer, dissipation, or concealment of their Assets or business records
7 unless Non-Stipulating Defendants continue to be restrained and enjoined by Order of
8 this Court;

9 10. Good cause exists to permit the FTC to take limited expedited discovery
10 from third parties as to the existence and location of Assets and Documents;

11 11. Good cause exists to appoint a Receiver as Non-Stipulating Defendants'
12 business is permeated with fraud;

13 12. Weighing the equities and considering the FTC's likelihood of ultimate
14 success, a preliminary injunction order with an Asset freeze, appointment of a Receiver,
15 limited expedited discovery as to the existence and location of Assets and Documents,
16 and other equitable relief is in the public interest; and

17 13. No security is required of any agency of the United States for the issuance
18 of a preliminary injunction. Fed. R. Civ. P. 65(c).

19 **DEFINITIONS**

20 For the purposes of this Preliminary Injunction, the following definitions apply:

21 1. **"Asset"** or **"Assets"** means any legal or equitable interest in, right to, or
22 claim to, any and all real and personal property of Defendants, or held for the benefit of
23 Defendants, wherever located, whether in the United States or abroad, including but not
24 limited to chattel, goods, instruments, equipment, fixtures, general intangibles, effects,
25 leaseholds, contracts, mail or other deliveries, inventory, checks, notes, accounts, credits,
26 receivables (as those terms are defined in the Uniform Commercial Code), shares of
27 stock, futures, all cash or currency, and trusts, including but not limited to a trust held for
28 the benefit of any Defendant, any of the Individual Defendants' minor children, or any of

1 the Individual Defendants' spouses, and shall include both existing Assets and Assets
2 acquired after the date this Order is signed, or any interest therein.

3 2. "Asset Freeze Accounts" includes accounts that are held by or for the
4 benefit of, or controlled by, directly or indirectly, any Corporate Defendant, Individual
5 Defendant, and/or Receiver Entity. Asset Freeze Accounts also includes the following
6 accounts, identified by the account holder, the Financial Institution, and last four digits of
7 the account number:

- 8 a. Blue Saguaro Marketing, LLC, Bank of America, 2068;
- 9 b. Max Results Marketing LLC, JP Morgan Chase, 6791;
- 10 c. Blue Saguaro Marketing, LLC, Wells Fargo, 0221;
- 11 d. Marketing Ways.com, LLC, Wells Fargo, 0166;
- 12 e. Max Results Marketing LLC, Wells Fargo, 6453;
- 13 f. Sapphire Marketing II LLC, Bank of America, 5033;
- 14 g. Purple Bulldog LLC, BBVA Compass, 2401;
- 15 h. Cenex Hub Distribution, Bank of America, 0396;
- 16 i. Max Results Marketing LLC, Chase Bank, 9625;
- 17 j. Oro Canyon Marketing LLC, BBVA Compass, 1055;
- 18 k. Southwest Billing & Payments, Chase Bank, 2226;
- 19 l. Southwest Billing & Payments, Goldenwest Credit Union, 2754;
- 20 m. Southwest Billing & Payments, Wells Fargo, 9752;
- 21 n. M&V Venture Group, Bank of America, 1325;
- 22 o. Paramount Business Services, Mountain America Credit Union, 9041;
- 23 p. Bluhm Enterprises, Bank of America, 5100;
- 24 q. Oro Canyon Marketing LLC, Chase Bank, 6599;
- 25 r. Do Rite Plumbing & Remodeling, LLC, Chase Bank, 0265;
- 26 s. Do Rite Plumbing and Remodeling, Wells Fargo, 2232;
- 27 t. Stephanie A. Bateluna, Capital One Credit Card, 1151;
- 28 u. Carol Burnett, BBVA Compass, unknown;

1 v. Carol Burnett, Chase Bank, unknown; and

2 w. Unknown, BBVA Compass, 1086.

3 3. **“Assisting others”** includes but is not limited to: (1) performing customer
4 service functions, including but not limited to receiving or responding to consumer
5 complaints; (2) formulating or providing, or arranging for the formulation or provision of,
6 any advertising or marketing material, including but not limited to any telephone sales
7 script, direct mail solicitation, or the design, text, or use of images of any Internet
8 website, email, or other electronic communications; (3) formulating or providing, or
9 arranging for the formulation or provision of, any marketing support material or service,
10 including but not limited to, web or Internet Protocol addresses or domain name
11 registration for any Internet websites, affiliate marketing services, or media placement
12 services; (4) providing names of, or assisting in the generation of, potential customers;
13 (5) performing or providing marketing, billing, or payment services of any kind; (6)
14 acting or serving as an owner, officer, director, manager, or principal of any entity; (7)
15 providing telemarketing services; or (8) consulting with regard to any of the above.

16 4. **“Corporate Defendants”** means Blue Saguaro Marketing, LLC,
17 Marketing Ways.com, LLC, Max Results Marketing, LLC, Oro Canyon Marketing II,
18 LLC, Paramount Business Services, LLC, and their successors, assigns, affiliates, or
19 subsidiaries, and each of them by whatever names each might be known, individually,
20 collectively, and in any combination.

21 5. **“Defendants”** means all Individual Defendants, Corporate Defendants, and
22 their successors, assigns, affiliates, subsidiaries, or agents, individually, collectively, or in
23 any combination, and each of them by whatever names each might be known.

24 6. **“Document”** is synonymous in meaning and equal in scope to the terms
25 “Document” and “electronically stored information,” as described and used in the Federal
26 Rules of Civil Procedure. This includes, but is not limited to, electronic mail, instant
27 messaging, videoconferencing, and other electronic correspondence (whether active,
28 archived, or in a deleted items folder), word processing files, spreadsheets, databases, and

1 video and sound recordings, whether stored on: cards; magnetic or electronic tapes; disks;
2 computer hard drives, network shares or servers, or other drives; cloud-based platforms;
3 cell phones, PDAs, computer tablets, or other mobile devices; or other storage media.

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

8 8. **“Financial Institution”** means any bank, savings and loan institution,
9 credit union, payment processor, trust, or any financial depository of any kind, including
10 but not limited to, any brokerage house, trustee, broker-dealer, escrow agent, title
11 company, commodity trading company, or precious metal dealer.

12 9. **“Individual Defendants”** means Stephanie A. Bateluna, Stacey C. Vela,
13 and Carl E. Morris, Jr., and any other names they might use, have used, be known by or
14 have been known by, individually, collectively, and in any combination.

15 10. **“Person”** means any individual, group, unincorporated association, limited
16 or general partnership, corporation or other business entity.

17 11. **“Plaintiff”** means the Federal Trade Commission (“Commission” or
18 “FTC”).

19 12. **“Receivership Entities”** means Corporate Defendants and any entities that
20 are part of Defendants’ common enterprise, including but not limited to Cenex Hub
21 Distribution, Sapphire Marketing LLC, Sapphire Marketing II, LLC, Oro Canyon
22 Marketing LLC, Purple Bulldog LLC, Bluhm Enterprises, M&V Venture Group,
23 Dreamland Marketing, DL Marketing, Do Rite Plumbing and Remodeling, Southwest
24 Billing and Payments, Grant Strategy Solutions, Bay Harbor Associates, Velocity
25 Solutions, Markco Enterprises, Pro Media, Ewealth Masters, GAWH Corp., Empire
26 Productions, Textport Electronic Sales, Ecommerce Advertising Team, Merchant Partner
27 Alliance, Hit Marketing LLC, and Dreamline Fidelity Group, LLC. “Receivership
28 Entities” includes businesses that lack formal legal structure (such as businesses

1 operating under fictitious business names), but that otherwise satisfy the definition of
2 “Receivership Entity.”

3 13. **“Receiver”** means the Receiver appointed in this Order. The term
4 “Receiver” also includes any deputy receivers or agents as may be named by the
5 Receiver.

6 14. **“Non-Stipulating Defendants”** means Blue Saguaro Marketing, LLC,
7 Marketing Ways.com, LLC, Max Results Marketing, LLC, Oro Canyon Marketing II,
8 LLC, and their successors, assigns, affiliates, or subsidiaries, and each of them by
9 whatever names each might be known, individually, collectively, and in any combination.

10 **ORDER**

11 **I. PROHIBITED REPRESENTATIONS**

12 **IT IS THEREFORE ORDERED** that Non-Stipulating Defendants, their officers,
13 agents, servants, employees, and attorneys, and all other persons in active concert or
14 participation with any of them, who receive actual notice of this Order, whether acting
15 directly or indirectly, in connection with the advertising, marketing, promotion, offering
16 for sale, sale, or performance of any service or product, are temporarily restrained and
17 enjoined from making or assisting others in making, expressly or by implication:

18 A. Any representation that purchasers of the good or service will, or are likely
19 to, receive grants;

20 B. Any misrepresentation that purchasers of the good or service will, or are
21 likely to, generate income;

22 C. Any misrepresentation regarding material aspect of the performance,
23 efficacy, nature, or central characteristics of the good or service;

24 D. Any misrepresentation made for the purpose of inducing a consumer to pay
25 for the good or service; and

26 E. Any misrepresentation of any fact material to consumers concerning any
27 good or service, such as the total costs; or any material restrictions, limitations, or
28 conditions.

1 **II. PRESERVATION OF RECORDS AND TANGIBLE THINGS**

2 **IT IS FURTHER ORDERED** that Non-Stipulating Defendants, their officers,
3 agents, servants, employees, and attorneys, and all other persons in active concert or
4 participation with any of them, who receive actual notice of this Order, whether acting
5 directly or indirectly, in connection with the advertising, marketing, promotion, offering
6 for sale, sale, or provision of any product or service, are hereby temporarily restrained
7 and enjoined from destroying, erasing, mutilating, concealing, altering, transferring, or
8 otherwise disposing of, in any manner, directly or indirectly, any Documents or records
9 that relate to the business practices, or business and personal finances, of Non-Stipulating
10 Defendants, or an entity directly or indirectly under the control of Non-Stipulating
11 Defendants.

12 **III. DISABLEMENT OF WEBSITES AND PRESERVATION OF**
13 **ELECTRONICALLY STORED INFORMATION**

14 **IT IS FURTHER ORDERED** that, immediately upon service of this Order upon
15 them (1) any Electronic Data Host and (2) Non-Stipulating Defendants, their officers,
16 agents, servants, employees, and attorneys, and all other persons in active concert or
17 participation with any of them, who receive actual notice of this Order, whether acting
18 directly or indirectly, shall:

19 A. Immediately take all necessary steps to ensure that any Internet website
20 used by Non-Stipulating Defendants for the advertising, marketing, promotion, offering
21 for sale, sale, or provision of services or products prohibited by Section I of this Order
22 cannot be accessed by the public; and

23 B. Prevent the alteration, destruction or erasure of any (1) Internet website
24 used by Non-Stipulating Defendants for the advertising, marketing, promotion, offering
25 for sale, sale, or provision of services or products prohibited by Section I of this Order by
26 preserving such websites in the format in which they are maintained currently and (2) any
27 electronically stored information stored on behalf of Non-Stipulating Defendants.
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1 **IV. SUSPENSION OF INTERNET DOMAIN NAME REGISTRATIONS**

2 **IT IS FURTHER ORDERED** that, any domain name registrar shall suspend the
3 registration of any Internet website used by Non-Stipulating Defendants for the
4 advertising, marketing, promotion, offering for sale, sale, or provision of services or
5 products prohibited by Section I of this Order and provide immediate notice to counsel
6 for the FTC of any other Internet domain names registered by Non-Stipulating
7 Defendants, Non-Stipulating Defendants' officers, agents, servants, employees, and
8 attorneys, and all other persons in active concert or participation with any of them who
9 receive actual notice of this Order by personal service or otherwise.

10 **V. PROHIBITION ON USE OF CUSTOMER INFORMATION**

11 **IT IS FURTHER ORDERED** that Non-Stipulating Defendants, and their
12 officers, agents, directors, servants, employees, salespersons, and attorneys, as well as all
13 other persons or entities in active concert or participation with them, who receive actual
14 notice of this Order by personal service or otherwise, whether acting directly or through
15 any trust, corporation, subsidiary, division, or other device, are hereby temporarily
16 restrained and enjoined from using, benefitting from, selling, renting, leasing,
17 transferring, or otherwise disclosing the name, address, telephone number, email address,
18 Social Security number, credit card number, debit card number, bank account number,
19 any financial account number, or any data that enables access to any customer's account,
20 or other identifying information of any person which the Non-Stipulating Defendants
21 obtained prior to when this Order is signed, in connection with the marketing or sale of
22 any good or service, including those who were contacted or are on a list to be contacted
23 by the Non-Stipulating Defendants; provided that Non-Stipulating Defendants may
24 disclose such identifying information to the Receiver, a law enforcement agency, or as
25 required by any law, regulation, or court order.

26 **VI. ASSET FREEZE**

27 **IT IS FURTHER ORDERED** that Non-Stipulating Defendants, and their
28 officers, agents, servants, employees, and attorneys, and all other persons or entities

1 directly or indirectly under the control of any of them, and all other persons or entities in
2 active concert or participation with any of them who receive actual notice of this Order
3 are hereby temporarily restrained and enjoined from directly or indirectly:

4 A. Transferring, liquidating, converting, encumbering, pledging, loaning,
5 selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, granting a
6 lien or security interest or other interest in, or otherwise disposing of any Assets, or any
7 interest therein, wherever located, including outside the United States, that are:

8 1. Asset Freeze Accounts;

9 2. owned or controlled, directly or indirectly, by any Defendant, in
10 whole or in part, or held, in whole or in part, for the benefit of any
11 Defendant;

12 3. in the actual or constructive possession of any Defendant; or

13 4. owned, controlled by, or in the actual or constructive possession of
14 any corporation, partnership, or other entity directly or indirectly owned,
15 managed, or controlled by, or under common control with any Defendant,
16 including any entity acting under a fictitious name owned by or controlled
17 by any Defendant, and any Assets held by, for, or under the name of any
18 Defendant at any bank or savings and loan institution, or with any broker-
19 dealer, escrow agent, title company, commodity trading company, payment
20 processing company, precious metal dealer, or other Financial Institution or
21 depository of any kind;

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

24 C. Incurring charges or cash advances on any credit card, debit card, or
25 checking card issued in the name, singly or jointly, of any Defendant;

26 D. Obtaining a personal or secured loan;

27 E. Incurring liens or encumbrances on real property, personal property or other
28 Assets in the name, singly or jointly, of any Defendant; and

1 F. Cashing any checks or depositing any money orders or cash received from
2 consumers, clients, or customers of any Defendant.

3 **IT IS FURTHER ORDERED** that the Assets affected by this Section shall
4 include: (1) all Assets of Defendants as of the time the TRO was entered; and (2) for
5 Assets obtained after the time the TRO was entered, only those Assets of Defendants that
6 are derived, directly or indirectly, from the Defendants' activities as described in the
7 Commission's Complaint, including the activities of any Receivership Entity. This
8 Section does not prohibit transfers to the Receiver, as specifically required in the Section
9 titled "Transfer of Funds to the Receiver by Financial Institutions and Other Third
10 Parties," nor does it prohibit the repatriation of foreign Assets, as specifically required in
11 the Section titled "Repatriation of Foreign Assets" of this Order.

12 **VII. RETENTION OF ASSETS AND DOCUMENTS BY THIRD PARTIES**

13 **IT IS FURTHER ORDERED** that any Financial Institution, business entity,
14 Electronic Data Host, or person served with a copy of this Order that holds, controls, or
15 maintains custody of any account, Document, or Asset of, on behalf of, in the name of,
16 for the benefit of, subject to withdrawal by, subject to access or use by, or under the
17 signatory power of the Non-Stipulating Defendants, or other party subject to the Asset
18 Freeze above, or has held, controlled, or maintained any such account, Document, or
19 Asset, shall:

20 A. Hold, preserve, and retain within such entity's or person's control, and
21 prohibit the withdrawal, removal, alteration, assignment, transfer, pledge, hypothecation,
22 encumbrance, disbursement, dissipation, conversion, sale, liquidation, or other disposal
23 of such account, Document, or Asset held by or under such entity's or person's control,
24 except as directed by further order of the Court;

25 B. Provide the Receiver immediate access to electronically stored information
26 stored, hosted, or otherwise maintained on behalf of the Non-Stipulating Defendants for
27 forensic imaging;

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1 C. Deny access to any safe deposit boxes that are either titled in the name of,
2 individually or jointly, or subject to access by the Non-Stipulating Defendants or other
3 party subject to the Asset Freeze above;

4 D. Provide to counsel for the FTC, within one (1) business day, a sworn
5 statement setting forth:

6 1. the identification of each account or Asset titled in the name,
7 individually or jointly, or held on behalf of or for the benefit of, subject to
8 withdrawal by, subject to access or use by, or under the signatory power of
9 the Non-Stipulating Defendants or other party subject to the Asset Freeze
10 above;

11 2. the balance of each such account, or a description of the nature and
12 value of such Asset, as of the close of business on the day on which this
13 Order was served, the day before the Order was served, and the average
14 daily balance for the six months before the Order was served;

15 3. the identification of any safe deposit box that is either titled in the
16 name of, individually or jointly, or is otherwise subject to access or control
17 by the Non-Stipulating Defendants or other party subject to the Asset
18 Freeze above; and

19 4. if the account, safe deposit box, or other Asset has been closed or
20 removed, the date closed or removed, the balance on said date, and the
21 name or the person or entity to whom such account or other Asset was
22 remitted;

23 E. Provide counsel for the FTC, within three (3) business days after being
24 served with a request, copies of all Documents pertaining to such account or Asset,
25 including but not limited to: account statements, account applications, signature cards,
26 underwriting files, checks, deposit tickets, transfers to and from the accounts, wire
27 transfers, all other debit and credit instruments or slips, 1099 forms, and safe deposit box
28 logs; and

1 F. Cooperate with all reasonable requests of the FTC relating to this Order's
2 implementation.

3 **IT IS FURTHER ORDERED** that this Section shall apply to both existing
4 Documents, records, and Assets and to Documents, records, and Assets acquired after the
5 date this Order is signed. This Section does not prohibit transfers to the Receiver, as
6 specifically required in the Section titled "Transfer of Funds to the Receiver by Financial
7 Institutions and Other Third Parties," nor does it prohibit the repatriation of foreign
8 Assets, as specifically required in the Section titled "Repatriation of Foreign Assets" of
9 this Order.

10 **VIII. FINANCIAL STATEMENT AND ACCOUNTING**

11 **IT IS FURTHER ORDERED** that any Non-Stipulating Defendant that has not
12 yet provided Financial Statements to the FTC in accordance with Section VIII of the
13 TRO, within one (1) business day of service of this Order, shall prepare and deliver to
14 counsel for the FTC a completed financial statement, accurate as of the date of service of
15 this Order upon such Non-Stipulating Defendants, in the form of Attachment B to this
16 Order captioned "Financial Statement of Corporate Defendant."

17 **IX. CREDIT REPORTS**

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

22 **X. REPATRIATION OF FOREIGN ASSETS**

23 **IT IS FURTHER ORDERED** that, within three (3) days following the service of
24 this Order, the Non-Stipulating Defendants shall:

25 A. Transfer to the territory of the United States and provide the FTC and the
26 Receiver with a full accounting of all Assets, Documents, and records outside of the
27 territory of the United States that are:

- 28 1. owned or controlled by;

- 1 2. subject to access by;
- 2 3. held in whole or in part for the benefit of;
- 3 4. belonging to any entity that is directly or indirectly owned, managed,
- 4 or under the control of; or
- 5 5. belonging to a person under the control of the Non-Stipulating
- 6 Defendants;

7 B. Hold all repatriated Assets, Documents, and records as required by the
8 Asset Freeze imposed by this Order; and

9 C. Provide the FTC access to all records of accounts or Assets of the Non-
10 Stipulating Defendants held by any Financial Institution or other person located outside
11 the territorial United States by signing the Consent to Release of Financial Records
12 attached to this Order as Attachment C and by signing any other Documents required by
13 any person, including any Financial Institution, or other person holding any such Asset.

14 **XI. NON-INTERFERENCE WITH REPATRIATION**

15 **IT IS FURTHER ORDERED** that Non-Stipulating Defendants, and each of their
16 successors, assigns, members, officers, agents, servants, employees, and attorneys, and
17 those persons in active concert or participation with them who receive actual notice of
18 this Order by personal service or otherwise, whether acting directly or through any entity,
19 corporation, subsidiary, division, affiliate or other device, are hereby temporarily
20 restrained and enjoined from taking any action, directly or indirectly, that may result in
21 the encumbrance or dissipation of foreign Assets, or in the hindrance of the repatriation
22 required by the preceding “Repatriation of Assets” Section of this Order, including, but
23 not limited to:

24 A. Sending any statement, letter, fax, email or wire transmission, or
25 telephoning or engaging in any other act, directly or indirectly, that results in a
26 determination by a foreign trustee or other entity that a “duress” event has occurred under
27 the terms of a foreign trust agreement until such time that all Assets have been fully
28 repatriated pursuant to the “Repatriation of Assets” Section of this Order; or

1 B. Notifying any trustee, protector, or other agent of any foreign trust or other
2 related entities of either the existence of this Order, or of the fact that repatriation is
3 required pursuant to a court order, until such time that all Assets have been fully
4 repatriated pursuant to “Repatriation of Assets” Section of this Order.

5 **XII. RECORDKEEPING AND BUSINESS OPERATIONS**

6 **IT IS FURTHER ORDERED** that Non-Stipulating Defendants are hereby
7 temporarily restrained and enjoined from:

8 A. Failing to create and maintain Documents that, in reasonable detail,
9 accurately, fairly, and completely reflect its income, disbursements, transactions, and use
10 of money;

11 B. Creating, operating, or exercising any control over any business entity,
12 including any partnership, limited partnership, joint venture, sole proprietorship, limited
13 liability company or corporation, without first providing the Commission with a written
14 statement disclosing: (1) the name of the business entity; (2) the address and telephone
15 number of the business entity; (3) the names of the business entity’s officers, directors,
16 principals, managers, and employees; and (4) a detailed description of the business
17 entity’s intended activities; and

18 C. Affiliating with, becoming employed by, or performing any work for any
19 business that is not a named Defendant in this action without first providing the
20 Commission with a written statement disclosing: (1) the name of the business; (2) the
21 address and telephone number of the business; and (3) a detailed description of the nature
22 of the business or employment and the nature of the Non-Stipulating Defendants’ duties
23 and responsibilities in connection with that business or employment.

24 **XIII. APPOINTMENT OF RECEIVER**

25 **IT IS FURTHER ORDERED** that Robb Evans & Associates LLC is appointed
26 Receiver for the Receivership Entities, with the full power of an equity Receiver. The
27 Receiver shall be the agent of this Court and solely the agent of this Court in acting as
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1 Receiver under this Order. The Receiver shall be accountable directly to this Court. The
2 Receiver shall comply with all local rules and laws governing federal equity receivers.

3 **XIV. COOPERATION WITH THE RECEIVER**

4 **IT IS FURTHER ORDERED** that Non-Stipulating Defendants shall fully
5 cooperate with and assist the Receiver. Non-Stipulating Defendants' cooperation and
6 assistance shall include, but not be limited to, providing any information to the Receiver
7 that the Receiver deems necessary to exercise the authority and discharge the
8 responsibilities of the Receiver under this Order; providing any login, password, or
9 biometric identifier required to access any computer or electronic files or information in
10 or on any medium; and advising all persons who owe money to the Receivership Entities
11 that all debts should be paid directly to the Receiver. Non-Stipulating Defendants are
12 hereby restrained and enjoined from directly or indirectly:

13 A. Transacting any of the business of the Receivership Entities;

14 B. Excusing debts owed to the Receivership Entities;

15 C. Destroying, secreting, defacing, transferring, or otherwise altering or
16 disposing of any Documents of the Receivership Entities;

17 D. Transferring, receiving, altering, selling, encumbering, pledging, assigning,
18 liquidating, or otherwise disposing of any Assets owned, controlled, or in the possession
19 or custody of, or in which an interest is held or claimed by, the Receivership Entities, or
20 the Receiver;

21 E. Failing to provide any assistance or information requested by the Receiver
22 in connection with obtaining possession, custody, or control of any Assets within the
23 receivership estate that the Receiver or the FTC has identified; or

24 F. Doing any act or thing whatsoever to interfere with the Receiver's taking
25 and keeping custody, control, possession, or managing of the Assets or Documents
26 subject to this receivership; or to harass or interfere with the Receiver in any way; or to
27 interfere in any manner with the exclusive jurisdiction of this Court over the Assets or
28 Documents of the Receivership Entities; or to refuse to cooperate with the Receiver or the

1 Receiver's duly authorized agents in the exercise of their duties or authority under any
2 Order of this Court.

3 **XV. DUTIES AND AUTHORITY OF RECEIVER**

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

6 A. Assume full control of the Receivership Entities by removing, as the
7 Receiver deems necessary or advisable, any director, officer, independent contractor,
8 employee, attorney, or agent of any Receivership Entity from control of, management of,
9 or participation in, the affairs of the Receivership Entities;

10 B. Take exclusive custody, control, and possession of all Assets and
11 Documents of, or in the possession, custody, or under the control of, any Receivership
12 Entity and other persons or entities whose interests are now held by or under the
13 direction, possession, custody, or control of any Receivership Entity, wherever situated.
14 The Receiver shall have full power to divert mail; change usernames, passwords or other
15 log-in credentials for any online access to accounts held by any Receivership Entity (such
16 as online access to financial accounts and remote access to electronic Documents held by
17 cloud service providers, email service providers and web hosts); and take possession of
18 all electronic Documents of the Receivership Entities stored remotely by copying all such
19 Documents and obtaining the assistance of the FTC's litigation support staff for the
20 purpose of obtaining electronic Documents stored remotely. The Receiver shall assume
21 control over the income and profits therefrom and all sums of money now or hereafter
22 due or owing to the Receivership Entities. *Provided, however,* that the Receiver shall not
23 attempt to collect any amount from a consumer if the Receiver believes the consumer was
24 a victim of the unfair or deceptive acts or practices or other violations of law alleged in
25 the Complaint in this matter, without prior Court approval;

26 C. Take all steps necessary to secure the business premises of the Receivership
27 Entities, which may include, but are not limited to, taking the following steps as the
28 Receiver deems necessary or advisable: (1) serving and filing this Order; (2) completing

1 a written inventory of all receivership Assets; (3) obtaining pertinent information from all
2 employees and other agents of the Receivership Entities, including, but not limited to, the
3 name, home address, Social Security number, job description, method of compensation,
4 and all accrued and unpaid commissions and compensation of each such employee or
5 agent; (4) video-recording and/or photographing all portions of the location at which any
6 Receivership Entity conducts business or has Assets; (5) changing the locks and alarm
7 codes and disconnecting any computer networks or other means of access to
8 electronically stored information or other Documents maintained at that location; or (6)
9 requiring any persons present on the premises at the time this Order is served to leave the
10 premises, to provide the Receivers with proof of identification, and/or to demonstrate to
11 the satisfaction of the Receiver that such persons are not removing from the premises
12 Documents or Assets of the Receivership Entities. Such authority shall include, but not
13 be limited to, the authority to order any owner, director, officer, employee, or agent of the
14 Receivership Entities to leave the business premises;

15 D. Conserve, hold, and manage all receivership Assets, and perform all acts
16 necessary or advisable to preserve the value of those Assets, in order to prevent any
17 irreparable loss, damage, or injury to consumers, including, but not limited to, obtaining
18 an accounting of the Assets and preventing the transfer, withdrawal, or misapplication of
19 Assets;

20 E. Enter into contracts and purchase insurance as advisable or necessary;

21 F. Prevent the inequitable distribution of Assets and determine, adjust, and
22 protect the interests of consumers and creditors who have transacted business with the
23 Receivership Entities;

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

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1 H. Continue and conduct the businesses of the Non-Stipulating Defendants in
2 such manner, to such extent, and for such duration as the Receiver may in good faith
3 deem to be necessary or appropriate to operate the businesses profitably, using the Assets
4 of the receivership estate, and lawfully, if at all;

5 I. Choose, engage, and employ attorneys, accountants, appraisers,
6 investigators, and other independent contractors and technical specialists, as the Receiver
7 deems advisable or necessary in the performance of their duties and responsibilities,
8 including but not limited to the law firm in which the Receiver is a partner;

9 J. Make payments and disbursements from the receivership estate that are
10 necessary or advisable for carrying out the directions of, or exercising the authority
11 granted by, this Order. The Receiver shall apply to the Court for prior approval of any
12 payment of any debt or obligation incurred by the Receivership Entities prior to the date
13 this Order is signed, except payments that the Receiver deems necessary or advisable to
14 secure Assets of the Receivership Entities, such as rental payments;

15 K. Collect any money due or owing to the Receivership Entities;

16 L. Institute, compromise, adjust, appear in, intervene in, or become party to
17 such actions or proceedings in state, federal or foreign courts that the Receiver deems
18 necessary and advisable to preserve or recover the Assets or Documents of the
19 Receivership Entities, or to carry out the Receiver's mandate under this Order;

20 M. Defend, compromise, adjust, or otherwise dispose of any or all actions or
21 proceedings instituted against the Receivership Entities or the Receiver that the Receiver
22 deems necessary and advisable to preserve the Assets of the Receivership Entities, or to
23 carry out the Receiver's mandate under this Order;

24 N. Take depositions and issue subpoenas to obtain Documents and records
25 pertaining to the receivership and compliance with this Order. Subpoenas may be served
26 by electronic mail, by agents or attorneys of the Receiver and by agents of any process
27 server retained by the Receiver;

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1 O. Open one or more bank accounts as designated depositories for funds of the
2 Receivership Entities. The Receiver shall deposit all funds of the Receivership Entities in
3 such a designated account and shall make all payments and disbursements from the
4 receivership estate from such an account;

5 P. Maintain accurate records of all receipts and expenditures made by the
6 Receiver; and

7 Q. Cooperate with reasonable requests for information or assistance from any
8 state or federal law enforcement agency.

9 **XVI. TRANSFER OF FUNDS TO THE RECEIVER BY FINANCIAL**
10 **INSTITUTIONS AND OTHER THIRD PARTIES**

11 **IT IS FURTHER ORDERED** that, upon service of a copy of this Order, any
12 Financial Institution shall cooperate with all reasonable requests of counsel for the FTC
13 and the Receiver relating to implementation of this Order, including transferring funds at
14 the Receiver's direction and producing records related to the Assets and sales of the
15 Receivership Entities.

16 **XVII. RECEIVER'S REPORTS**

17 **IT IS FURTHER ORDERED** that the Receiver shall report to this Court at least
18 one day before the date set for the hearing regarding the Preliminary Injunction,
19 regarding: (1) the steps taken by the Receiver to implement the terms of this Order; (2)
20 the value of all liquidated and unliquidated Assets of the Receivership Entities; (3) the
21 sum of all liabilities of the Receivership Entities; (4) the steps the Receiver intends to
22 take in the future to: (a) prevent any diminution in the value of Assets of the Receivership
23 Entities; (b) pursue receivership Assets from third parties; and (c) adjust the liabilities of
24 the Receivership Entities, if appropriate; and (5) any other matters which the Receiver
25 believes should be brought to the Court's attention. Provided, however, if any of the
26 required information would hinder the Receiver's ability to pursue receivership Assets,
27 the portions of the Receiver's report containing such information may be filed under seal
28 and not served on the parties.

1 **XVIII. RECEIVER’S BOND**

2 **IT IS FURTHER ORDERED** that, pursuant to 28 U.S.C. § 754, the Court will
3 exercise its discretion and waive the receiver’s bond.

4 **XIX. COMPENSATION OF THE RECEIVER**

5 **IT IS FURTHER ORDERED** that the Receiver, and all persons or entities
6 retained or hired by the Receiver as authorized under this Order, shall be entitled to
7 reasonable compensation for the performance of duties undertaken pursuant to this Order
8 and for the cost of actual out-of-pocket expenses incurred by them from the Assets now
9 held by or in the possession or control of, or which may be received by, the Receivership
10 Entities. The Receiver shall file with the Court and serve on the parties a request for the
11 payment of reasonable compensation at the time of the filing of any report required by
12 the “Receiver’s Reports” Section of this Order. The Receiver shall not increase the fees
13 or rates used as the bases for such fee applications without prior approval of the Court.

14 **XX. RECEIVER’S ACCESS TO BUSINESS PREMISES AND RECORDS**

15 **IT IS FURTHER ORDERED** that:

16 A. The Receiver, and his representatives, agents, and assistants, shall have
17 immediate access to all business premises and storage facilities, owned, controlled, or
18 used by any Receivership Entity, including but not limited to the offices and facilities at:
19 13201 North 35th Avenue, Suite B12, Phoenix, AZ 85029; 13201 North 35th Avenue,
20 Suite B20, Phoenix, AZ 85029; 4045 East McDowell Road, Phoenix, AZ 85008; 10640
21 North 28th Drive, Phoenix, AZ 85053; and any offsite commercial mail boxes or virtual
22 offices used by any Receivership Entity. The Receiver is authorized to employ the
23 assistance of law enforcement as he deems necessary to effect service and peacefully
24 implement this Order. The Receiver may exclude Receivership Entities and their
25 employees from part or all of the business premises during the immediate access. The
26 purpose of the immediate access shall be to effect service and to inspect and copy the
27 business and financial records of the Receivership Entities, including forensic imaging of
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1 electronically stored information. Such business records include, but are not limited to,
2 correspondence, contracts, emails, and financial data;

3 B. The Receiver and its representatives, agents, and assistants, shall have the
4 right to remove materials from the above-listed premises for inspection and copying;

5 C. Receivership Entities and all employees or agents of Receivership Entities
6 shall provide the Receiver with any necessary means of access to Documents and records,
7 including, without limitation, the locations of the Receivership Entities' business
8 premises, keys and combinations to locks, alarm codes, computer access codes, and
9 storage area access information;

10 D. If any Non-Stipulating Defendants possess a smartphone or tablet on
11 receivership premises, they will turn over the device to the Receiver for imaging. Within
12 two (2) business days, the Receiver will return the device; and

13 E. If any Documents, computers, smartphones, tablets, or electronic data
14 storage devices containing information related to the business practices or finances of the
15 Receivership Entities are at a location other than those listed herein, then, immediately
16 upon notice of this Order, Non-Stipulating Defendants shall produce to the Receiver all
17 such Documents, computers, smartphones, tablets, or electronic data storage devices. To
18 prevent the destruction of electronic data, upon service of this Order upon any
19 Receivership Entity, any computers, smartphones, tablets, or electronic data storage
20 devices containing such information shall be powered down (turned off) in the normal
21 course for the operating systems used on such devices and shall not be used until
22 produced for copying and inspection, along with any codes needed for access. For any
23 smartphone or tablet that contains information related to the business practices or
24 finances of the Receivership Entities that is in the personal possession of any Non-
25 Stipulating Defendant, the Receiver shall image that device and return it to the Non-
26 Stipulating Defendant within two (2) business days.

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1 **XXI. PARTIES' ACCESS TO BUSINESS PREMISES AND RECORDS**

2 **IT IS FURTHER ORDERED** that the Receiver shall allow the FTC, the Non-
3 Stipulating Defendants, and their representatives reasonable access to the premises of the
4 Receivership Entities. The purpose of this access shall be to inspect, inventory, and copy
5 any Documents and other property owned by, or in the possession of, the Receivership
6 Entities, provided that those Documents and property are not removed from the premises
7 without the permission of the Receiver. The Receiver shall have the discretion to
8 determine the time, manner, and reasonable conditions of such access. The Receiver will
9 segregate all materials subject to an attorney-client privilege held by a Receivership
10 Entity's clients and shall not make these materials available to either the FTC or Non-
11 Stipulating Defendants without the clients' consent. The FTC's access to any Documents
12 pursuant to this provision shall not provide grounds for the Non-Stipulating Defendants
13 to object to any subsequent request for Documents served by the FTC.

14 **XXII. LIMITED EXPEDITED DISCOVERY**

15 **IT IS FURTHER ORDERED** that, in addition to any other discovery allowed in
16 this case, the Receiver and the FTC are granted leave to conduct certain expedited
17 discovery and that in lieu of the time periods, notice provisions, and other requirements
18 of the applicable Local Rules for this District and Rules 26, 30, 34, and 45 of the Federal
19 Rules of Civil Procedure, the Receiver and the FTC are granted leave to:

20 A. Depose, on three (3) days' notice, any party or non-party for the purpose of
21 discovering: (1) the nature, location, status, and extent of Assets of Non-Stipulating
22 Defendants; (2) the nature and location of Documents and business records of Non-
23 Stipulating Defendants; and (3) compliance with this Order. Any such depositions shall
24 not be counted toward any deposition limit set forth in the Federal Rules of Civil
25 Procedure or this Court's Local Rules and shall not preclude the FTC from subsequently
26 deposing the same person during discovery on the merits in this case. Depositions may be
27 taken by telephone, video conference, or other remote means. Any deposition taken
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1 pursuant to this Section that has not been reviewed and signed by the deponent may be
2 used by any party for purposes of any preliminary injunction hearing;

3 B. Serve upon parties interrogatories or requests for production of Documents
4 or inspection that require a response, production or inspection within four (4) days of
5 service, and may serve subpoenas upon non-parties that direct production or inspection
6 within seven (7) days of service, for the purpose of discovering: (1) the nature, location,
7 status, and extent of Assets of Non-Stipulating Defendants; (2) the nature and location of
8 Documents and business records of Non-Stipulating Defendants; and (3) compliance with
9 this Order; provided, however, that forty-eight (48) hours' notice shall be deemed
10 sufficient for the production of any such Documents that are maintained or stored as
11 electronic data. Any such interrogatories or requests for production or inspection shall not
12 count toward any limit on discovery set forth in the Federal Rules of Civil Procedure or
13 this Court's Local Rules;

14 C. For purposes of this Section, serve deposition notices and other discovery
15 requests upon the parties to this action personally or by facsimile, email, certified or
16 registered mail, or private courier (including a process server) with a receipt from the
17 courier showing delivery; and

18 D. Pursuant to Fed. R. Civ. P. 45, subpoena Documents immediately from any
19 Financial Institution, business entity, Electronic Data Host, or person served with a copy
20 of this Order that holds, controls, or maintains custody of any account, Document, or
21 Asset of, on behalf of, in the name of, for the benefit of, subject to withdrawal by, subject
22 to access or use by, or under the signatory power of the Non-Stipulating Defendants or
23 other party subject to the Asset Freeze above, or has held, controlled, or maintained any
24 such account, Document, or Asset. The recipient shall respond to such subpoena within
25 three (3) business days after service. The FTC and the Receiver may effect service by
26 electronic mail.

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1 **XXIII. BANKRUPTCY PETITIONS**

2 **IT IS FURTHER ORDERED** that, in light of the appointment of the Receiver,
3 the Receivership Entities are hereby prohibited from filing petitions for relief under the
4 United States Bankruptcy Code, 11 U.S.C. § 101 *et seq.*, without prior permission from
5 this Court.

6 **XXIV. STAY OF ACTIONS**

7 **IT IS FURTHER ORDERED** that:

8 A. Except by leave of this Court, during the pendency of the Receivership
9 ordered herein, the Receivership Entities and all customers, principals, investors,
10 creditors, stockholders, lessors, and other persons seeking to establish or enforce any
11 claim, right, or interest against or on behalf of the Receivership Entity, and all others
12 acting for or on behalf of such persons, including attorneys, trustees, agents, sheriffs,
13 constables, marshals, and other officers and their deputies, and their respective attorneys,
14 servants, agents, and employees be and are hereby stayed from:

15 1. Commencing, prosecuting, continuing, entering, or enforcing any
16 suit or proceeding, except that such actions may be filed to toll any
17 applicable statute of limitations;

18 2. Accelerating the due date of any obligation or claimed obligation;
19 filing or enforcing any lien; taking or attempting to take possession,
20 custody, or control of any Asset; attempting to foreclose, forfeit, alter, or
21 terminate any interest in any Asset, whether such acts are part of a judicial
22 proceeding, are acts of self-help, or otherwise;

23 3. Executing, issuing, serving, or causing the execution, issuance or
24 service of, any legal process, including but not limited to attachments,
25 garnishments, subpoenas, writs of replevin, writs of execution, or any other
26 form of process, whether specified in this Order or not; or

27 4. Doing any act or thing whatsoever to interfere with the Receiver's
28 taking custody, control, possession, or management of Assets or

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Documents subject to this receivership; or to harass or interfere with the Receiver in any way; or to interfere in any manner with the exclusive jurisdiction of this Court over the Assets or Documents of the Receivership Entities.

B. This Section does not stay:

1. The commencement or continuation of a criminal action or proceeding;
2. The commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power;
3. The enforcement of a judgment, other than a money judgment, obtained in an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power; or
4. The issuance to the Receivership Entities of a notice of tax deficiency.

XXV. ACKNOWLEDGMENT OF RECEIPT OF ORDER BY NON-STIPULATING DEFENDANTS

IT IS FURTHER ORDERED that the Non-Stipulating Defendants, within three (3) business days of receipt of this Order, must submit to counsel for the FTC a truthful sworn statement acknowledging receipt of this Order.

XXVI. CORRESPONDENCE WITH PLAINTIFF

IT IS FURTHER ORDERED that, for the purposes of this Order, because mail addressed to the FTC is subject to delay due to heightened security screening, all correspondence and service of pleadings on Plaintiff shall be sent via electronic submission and Federal Express to:

1 Elsie B. Kappler
2 Hong Park
3 Federal Trade Commission
4 600 Pennsylvania Ave., NW, Mail Drop CC-9528
5 Washington, DC 20580
6 Telephone: (202) 326-2466 (Kappler), -2158 (Park)
7 ekappler@ftc.gov, hpark@ftc.gov

8 **XXVII. SERVICE OF THIS ORDER**

9 **IT IS FURTHER ORDERED** that copies of this Order may be served by
10 facsimile, email, hand-delivery, personal or overnight delivery, or U.S. Mail, by agents
11 and employees of the FTC or any state or federal law enforcement agency or by private
12 process server, upon any Financial Institution or other entity or person that may have
13 possession, custody, or control of any Documents or Assets of the Non-Stipulating
14 Defendants, or that may otherwise be subject to any provision of this Order. Service upon
15 any branch or office of any Financial Institution shall effect service upon the entire
16 Financial Institution.


17 **XXVIII. DISTRIBUTION OF ORDER**

18 **IT IS FURTHER ORDERED** that within three (3) calendar days after service of
19 this Order, Non-Stipulating Defendants shall provide a copy of this Order to each of its
20 agents, employees, directors, officers, subsidiaries, affiliates, attorneys, independent
21 contractors, representatives, franchisees, affiliates, and all persons in active concert or
22 participation with them. Within five (5) calendar days following this Order, Non-
23 Stipulating Defendants shall provide the FTC with an affidavit identifying the names,
24 titles, addresses, and telephone numbers of the persons that Non-Stipulating Defendants
25 has served with a copy of this Order in compliance with this provision.

26 **XXIX. RETENTION OF JURISDICTION**

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

Dated this 28th day of October, 2016.


Honorable Steven P. Logan
United States District Judge