

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. 05 - 61559 Civ - Marra/Seltzer

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

TRANSNET WIRELESS CORPORATION,  
a Florida corporation,

NATIONWIDE CYBER SYSTEMS, INC.,  
a Florida corporation,

PAUL PEMBERTON,  
individually, and as owner, officer, or  
manager of one or more of the above-listed  
corporations,

FARRIS PEMBERTON,  
individually, and as owner, officer, or  
manager of one or more of the above-listed  
corporations, and

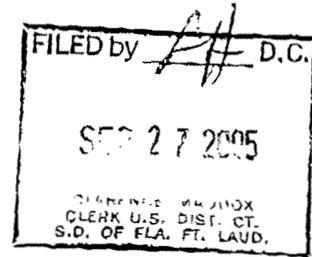
BRADLEY CARTWRIGHT,  
individually, and as an owner, officer, or  
manager of one or more of the above-listed  
corporations,

Defendants,

and

MARGARET PEMBERTON,

Relief Defendant.



) **EX PARTE TEMPORARY**  
) **RESTRAINING ORDER**  
) **WITH ASSET FREEZE,**  
) **ORDER FOR IMMEDIATE**  
) **ACCESS, ORDER**  
) **APPOINTING RECEIVER,**  
) **AND ORDER TO SHOW**  
) **CAUSE WHY A**  
) **PRELIMINARY INJUNCTION**  
) **SHOULD NOT ISSUE**

The Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), having filed a Complaint for Injunctive and Other Equitable Relief, including redress to consumers, pursuant to Sections 5(a), 13(b), and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a), 53(b) and 57b, and the FTC’s Trade Regulation Rule entitled “Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures” (the “Franchise Rule” or the “Rule”), 16 C.F.R. Part 436, and having moved for an *ex parte* temporary restraining order (“TRO”) pursuant to Rule 65 of the Federal Rules of Civil Procedure and S.D. Fla. L.R. 7.1.E, and the Court having considered the Complaint, declarations, exhibits, and memorandum of law filed in support of the Plaintiff’s motion, finds that:

1. This Court has jurisdiction of the subject matter of this case and there is good cause to believe it will have jurisdiction of all parties hereto.
2. There is good cause to believe that the Defendants Transnet Wireless Corporation, Nationwide Cyber Systems, Inc., Paul Pemberton, Farris Pemberton, and Bradley Cartwright and Relief Defendant Margaret Pemberton have engaged and are likely to engage in acts and practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and/or the Franchise Rule, 16 C.F.R. Part 436, and that the Commission is therefore likely to prevail on the merits of this action.
3. There is good cause to believe that immediate and irreparable damage to the Court’s ability to grant effective final relief in the form of monetary restitution or disgorgement will occur from the sale, transfer, or other disposition or concealment by the Defendants of their assets or corporate records unless the Defendants are immediately restrained and enjoined by Order of this Court. The evidence set forth in the “Plaintiff Federal Trade Commission’s Memorandum of Points and Authorities Supporting the Motion for an Ex Parte Temporary Restraining Order” and in the accompanying declarations and exhibits, shows that the Defendants have engaged in a concerted course of illegal activity in connection with the advertising, promotion, offering for sale, sale or servicing of the “public access internet kiosks or terminals” business ventures to consumers nationwide, in violation of Section 5 of the FTC Act, 15 U.S.C. § 45 and the Franchise Rule, 16 C.F.R. Part 436. Thus, there is good cause to believe that the Defendants will attempt to conceal the scope of their illegal actions and to avoid

returning their ill-gotten gains to consumers injured by their unlawful practices if not restrained from doing so by Order of this Court. In accordance with Fed. R. Civ. P. 65(b), good cause therefore exists for issuing this TRO on an ex parte basis without notice to the Defendants.

4. There is good cause for the Court to order an asset freeze as to all Defendants and appoint a temporary Receiver for the Corporate Defendants. The Corporate Defendants, while under the control of the Individual Defendants, have made misrepresentations, directly or indirectly, to induce consumers to purchase the internet kiosk business ventures. While marketing these business ventures, the Defendants have also failed to provide substantial disclosures prescribed by the Franchise Rule. The Defendants have retained ill-gotten gains from these and other practices, and a temporary Receiver and asset freeze are necessary in order to preserve the possibility of complete and meaningful relief at the conclusion of this litigation.

5. Weighing the equities and considering the Commission's likelihood of ultimate success, a temporary restraining order with asset freeze, appointment of a temporary Receiver, and other equitable relief is in the public interest.

6. As an agency of the United States, no security is required of the Commission for the issuance of a restraining order. *See* Fed. R. Civ. P. 65(c).

#### Definitions

For the purpose of this Temporary Restraining Order ("TRO"), the following definitions shall apply:

1. "Assets" means any legal or equitable interest in, right to, or claim to, any real and personal property, including, but not limited to chattel, goods, instruments, equipment, fixtures, general intangibles, inventory, checks, notes, leaseholds, effects, contracts, mail or other deliveries, shares of stock, lists of consumer names, accounts, credits, premises, receivables, funds, and cash, wherever located, whether in the United States or abroad.

2. "Business venture" means any written or oral business arrangement, however denominated, whether or not covered by the Franchise Rule, which consists of the payment of any consideration for:

a. the right or means to offer, sell, or distribute goods or services (whether or

not identified by a trademark, service mark, trade name, advertising, or other commercial symbol); and

- b. more than nominal assistance to any person or entity in connection with or incident to the establishment, maintenance, or operation of a new business or the entry by an existing business into a new line or type of business.

3. "Corporate Defendants" means Transnet Wireless Corporation and Nationwide Cyber Systems, Inc., and their successors, assigns, affiliates or subsidiaries;

4. "Defendants" means (a) each Corporate Defendant; (b) each Individual Defendant; (c) any person insofar as he or she is acting in the capacity of an officer, agent, servant, employee or attorney of any Corporate Defendant or any Individual Defendant; and (d) any person acting in active concert or participation with any of the foregoing who receives actual notice of this Order by personal service or otherwise. *See* Fed. R. Civ. P. 65(d).

5. "Individual Defendants" means Paul Pemberton, Farris Pemberton, Bradley Cartwright, and Margaret Pemberton.

6. "Document" is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy of a document is a separate document within the meaning of the term.

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

## ORDER

### **I. VIOLATIONS OF SECTION 5 OF THE FTC ACT PROHIBITED**

IT IS THEREFORE ORDERED that, in connection with the offering for sale or selling of any business venture, including a franchise, or location services, Defendants are hereby temporarily restrained and enjoined from making any material misrepresentation or assisting others in making any material misrepresentation, either expressly or by implication, to any prospective purchaser of such business venture or services, including, but not limited to, the following:

- A. that consumers who purchase Defendants' business ventures or services are likely to earn substantial income, are likely to earn a specific amount or range of money, are likely to have a certain number of transactions; or are likely to recoup or earn back their investment within a specified time period; and
- B. that Defendants will provide purchasers with profitable, prime, or other locations in which to place the purchasers' kiosks.

### **II. VIOLATIONS OF THE FRANCHISE RULE PROHIBITED**

IT IS FURTHER ORDERED that Defendants are hereby temporarily restrained and enjoined from violating or assisting others to violate any provisions of the Franchise Rule, 16 C.F.R. Part 436, including, but not limited to, restrained and enjoined from:

- A. failing to provide a prospective purchaser with a complete and accurate disclosure document, as prescribed by the Franchise Rule, 16 C.F.R. § 436.1(a);
- B. failing to provide a prospective purchaser with an earnings claim document, as prescribed by the Franchise Rule, 16 C.F.R. § 436.1(b), (c), and (e);
- C. failing to disclose, in immediate conjunction with any generally disseminated ("advertised") earnings claim, information required by the Franchise Rule, including the number and percentage of prior purchasers known by the Defendants to have achieved the same or better results, as required by the Franchise Rule, 16 C.F.R. § 436.1(b), (c), and (e);
- D. failing to have a reasonable basis for any earnings claim at the time such claim is

- made, as required by the Franchise Rule, 16 C.F.R. § 436.1(b),(c), and (e);
- E. failing to disclose, in immediate conjunction with any earnings claim, and in a clear and conspicuous manner, that material which constitutes a reasonable basis for the earnings claim is available to the prospective purchasers;
  - F. failing to provide material which constitutes a reasonable basis for any earnings claim to prospective purchasers, the Commission, or its staff upon reasonable demand; and
  - G. making claims or representations to prospective purchasers that are contradictory to the information required to be disclosed by Section 436.1 of the Rule.

### III. ASSET FREEZE

IT IS FURTHER ORDERED that the Defendants are hereby temporarily restrained and enjoined from:

- A. Transferring, converting, encumbering, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, or otherwise disposing of any assets, wherever located, that are (a) owned or controlled, in whole or in part, by any Corporate Defendant or Individual Defendant; (b) titled or held in the name, singly or jointly, of any Corporate Defendant or Individual Defendant; (c) in the actual or constructive possession of any Corporate Defendant or Individual Defendant; or (d) owned, controlled by, or in the actual or constructive possession of any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by, or under common control with, any Corporate Defendant or Individual Defendant, including, but not limited to, any assets held by or for any Corporate Defendant or Individual Defendant at any bank or savings and loan institution, or with any broker-dealer, escrow agent, title company, insurance agent, commodity trading company, precious metal dealer, other financial institution, or other depository of any kind;
- B. Opening or causing to be opened any safe deposit boxes or other storage facility or container titled in the name of or subject to access by any Corporate Defendant

- or Individual Defendant;
- C. Incurring charges or cash advances on any credit card, debit card, or checking card issued in the name, singly or jointly, of any Corporate Defendant or Individual Defendant; and
  - D. Securing a loan with or incurring a lien on the real property, the personal property, or other asset in the name, singly or jointly, of any Corporate Defendant or Individual Defendant.

Notwithstanding provisions of this Section, Defendants shall transfer all assets of the Receivership Defendants pursuant to Paragraph IX. of this Order.

Provided, however, that the assets affected by this Section shall include: (1) all of the assets of the Corporate Defendants and Individual Defendants existing as of the date this Order is entered; and (2) for assets obtained after the date this Order is entered, only those assets of the Corporate Defendants and the Individual Defendants that are derived from or otherwise related to the sale of business ventures or location services.

#### IV. DUTIES OF ASSET HOLDERS

IT IS FURTHER ORDERED that, pending determination of the Plaintiff's request for a preliminary injunction, any financial or brokerage institution, business entity, or person that holds, controls or maintains custody of any account or asset titled in the name of, held for the benefit of, or otherwise under the control of any Corporate Defendant or Individual Defendant, or has held, controlled or maintained custody of any such account or asset at any time since January 1, 2002, shall:

- A. Prohibit any person or entity from withdrawing, removing, assigning, transferring, pledging, encumbering, disbursing, dissipating, converting, selling, or otherwise disposing of any such asset except:
  - 1. as directed by further order of the Court; or
  - 2. for assets held in the name or for the benefit of any Receivership Defendant, as directed by the temporary Receiver appointed herein;
- B. Deny any person or entity access to any safe deposit box or other storage facility

that is:

1. titled in the name of any Corporate Defendant or Individual Defendant, either individually or jointly; or
2. otherwise held for the benefit of or subject to access by any Corporate Defendant or Individual Defendant.

Notwithstanding these subsections, the temporary Receiver appointed herein shall be provided with access to any safe deposit box or other storage facility or container individually or jointly titled in the name of, subject to access by, or held for the benefit of any Receivership defendant.

- C. Provide counsel for the Commission and the temporary Receiver appointed herein, within five (5) business days of receiving a copy of this Order, a sworn statement setting forth:
1. the identification number of each such account or asset titled in the name, individually or jointly, or held on behalf of, or for the benefit of, any Corporate Defendant or Individual Defendant;
  2. the balance of each such account, or a description of the nature and value of such asset as of the time this Order is served, and, if the account or other asset has been closed or removed, the date closed or removed, the total funds removed in order to close the account, and the name of the person or entity to whom such account or other asset was remitted; and
  3. the identification of any safe deposit box or other storage facility or container that is either titled in the name of any Corporate Defendant or Individual Defendant, individually or jointly, or is otherwise subject to access by any Corporate Defendant or Individual Defendant;
- D. Upon the request by the temporary Receiver or the Commission, promptly provide the temporary Receiver and the Commission with copies of all records or other documentation pertaining to such account or asset, including but not limited to originals or copies of account applications, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, all other debit

and credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs; and

- E. Cooperate with all reasonable requests of the temporary Receiver relating to implementation of this Order, including the transferring of funds.

#### V. FOREIGN ASSET REPATRIATION

IT IS FURTHER ORDERED that within five (5) business days following the service of this Order, each Corporate Defendant and Individual Defendant shall:

- A. Provide the Commission and the temporary Receiver with a full accounting of all funds, documents, and assets located outside of the United States which are (1) titled in the name, individually or jointly, of any Corporate Defendant or Individual Defendant; or (2) held by any person or entity for the benefit of any Corporate Defendant or Individual Defendant; or (3) under the direct or indirect control, whether jointly or singly, of any Corporate Defendant or Individual Defendant;
- B. Transfer to the territory of the United States all funds, documents, and assets located outside of the United States which are (1) titled in the name individually or jointly of any Defendant; or (2) held by any person or entity for the benefit of any Defendant; or (3) under any Defendant's direct or indirect control, whether jointly or singly;
- C. Hold and retain all repatriated funds, documents, and assets, and prevent any transfer, disposition, or dissipation whatsoever of any funds or assets, except as required by this Order; or for any funds, documents, or assets held by or in the name of a Corporate Defendant, transfer all items to the temporary Receiver; and
- D. Provide the Commission access to all records of funds, documents, or assets of any Corporate Defendant and Individual Defendant held by financial institutions or other entities or individuals located outside the United States by signing a Consent to Release of Financial Records, to be supplied by Plaintiff.

## VI. INTERFERENCE WITH REPATRIATION

IT IS FURTHER ORDERED that the Defendants are hereby temporarily restrained and enjoined from taking any action, directly or indirectly, which may result in the encumbrance or dissipation of funds, documents, or assets held outside of the United States, or in the hindrance of the repatriation required by the preceding Section of this Order, including but not limited to:

A. Sending any statement, letter, fax, e-mail or wire transmission, telephoning or engaging in any other act, directly or indirectly, that results in a determination by a foreign trustee or other entity that a "duress" event has occurred under the terms of a foreign trust agreement until such time that all assets have been fully repatriated pursuant to the preceding Section of this Order; and

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

## VII. APPOINTMENT OF A TEMPORARY RECEIVER

IT IS FURTHER ORDERED that Jane W. Moscovitz, Esq. is appointed as temporary Receiver for the Corporate Defendants (hereinafter referred to as "the Receivership Defendants"), with the full powers of an equity Receiver. The temporary Receiver shall be the agent of this Court in acting as Receiver under this Order.

## VIII. DUTIES AND AUTHORITY OF THE TEMPORARY RECEIVER

IT IS FURTHER ORDERED that the temporary Receiver is directed and authorized to accomplish the following consistent with this order, the FTC Act and the Franchise Rule:

- A. Assume full control of the Receivership Defendants by removing all Individual Defendants, and any officer, independent contractor, employee, or agent of the Receivership Defendants, from control and management of the affairs of the Receivership Defendants;
- B. Take exclusive custody, control, and possession of all the funds, property, mail

and other assets of, in the possession of, or under the control of the Receivership Defendants, wherever situated. The temporary Receiver shall have full power to sue for, collect, receive and take possession of all goods, chattels, rights, credits, moneys, effects, land, leases, books, records, work papers, and records of accounts, including computer-maintained information, and other papers and documents of the Receivership Defendants, including documents related to customers or clients whose interests are now held by or under the direction, possession, custody or control of the Receivership Defendants;

- C. Take all steps necessary to secure the business premises and any storage or other facilities of the Receivership Defendants, including but not limited to premises located at 100 S. Pine Island Road, Plantation, Florida 33324. However, to the extent that said location is the residence of any individual Defendant or other person, the Receiver shall not deny access to the residence to the individual Defendant or other person. If said location is a residence, the Receiver shall have access to the residence between the hours of 9:00 a. m. and 5:00 p.m., unless otherwise agreed by the individual Defendant or other person residing there. If said location is a residence, the Receiver shall not remove from the residence any item of personal property which appears to be used for residential living purposes.
- D. Preserve, hold and manage all Receivership assets, and perform all acts necessary to preserve the value of those assets, in order to prevent any loss, damage or injury to customers or clients;
- E. Prevent the withdrawal or misapplication of funds entrusted to the Receivership Defendants, and otherwise protect the interests of customers or clients;
- F. Manage and administer the Receivership Defendants by performing all acts incidental thereto that the temporary Receiver deems appropriate, including hiring or dismissing any and all personnel or suspending operations;
- G. Collect all money owed to the Receivership Defendants;
- H. Initiate, defend, compromise, adjust, intervene in, dispose of, or become a party to any actions or proceedings in state, federal or foreign court necessary to preserve

or increase the assets of the Receivership Defendants or to carry out his or her duties pursuant to this Order;

- I. Choose, engage and employ attorneys, accountants, appraisers, and other independent contractors and technical specialists, as the temporary Receiver deems advisable or necessary in the performance of duties and responsibilities under the authority granted by this Order;
- J. Issue subpoenas to obtain documents and records pertaining to the Receivership, and conduct discovery in this action on behalf of the Receivership estate at any time, including before the discovery conference. *See* Fed. R. Civ. P. 26(f);
- K. Open one or more bank accounts as designated depositories for funds of the Receivership Defendants. The temporary Receiver shall deposit all funds of the Receivership Defendants in such designated accounts and shall make all payments and disbursements from the Receivership estate from such accounts;
- L. Make payments and disbursements from the Receivership estate that are necessary or advisable for carrying out the directions of, or exercising the authority granted by, this Order. The temporary Receiver shall apply to the Court for prior approval of any payment of any debt or obligation incurred by the Receivership Defendants prior to the date of entry of this Order, except for payments that the temporary Receiver deems necessary or advisable to secure assets of the Receivership Defendants; and
- M. Prepare and submit a Report to this Court and to the parties, not less than twenty-four hours prior to the scheduled Preliminary Injunction Hearing. Such report may include all information the temporary Receiver determines is material to the Preliminary Injunction Hearing, but must include an accounting of all assets determined to exist as of the date of the Report.

#### **IX. TURNOVER OF PROPERTY TO THE RECEIVER**

IT IS FURTHER ORDERED that, immediately upon service of this Order upon them, Defendants and any other person or entity served with a copy of this Order shall immediately, or

within such time as permitted by the temporary Receiver in writing, deliver over to the temporary Receiver:

- A. Possession and custody of all funds, documents, property, and all other assets, owned beneficially or otherwise, wherever situated, of the Receivership Defendants;
- B. Possession and custody of documents of the Receivership Defendants, including but not limited to, all books and records of accounts, all financial and accounting records, balance sheets, income statements, bank records (including monthly statements, canceled checks, records of wire transfers, and check registers), client lists, title documents and other papers;
- C. Possession and custody of all assets being held by or on behalf of the Receivership Defendants or on behalf of the Receivership Defendants' customers;
- D. All keys, computer passwords, entry codes, and combinations to locks necessary to gain or to secure access to any of the assets or documents of the Receivership Defendants, including but not limited to, access to the Receivership Defendants' business premises, means of communication, accounts, computer systems, or other property; and
- E. Information identifying all accounts, employees, properties or other assets or obligations of the Receivership Defendants.

#### **X. DUTY TO COOPERATE WITH THE RECEIVER**

IT IS FURTHER ORDERED that Defendants and all other persons or entities served with a copy of this Order shall cooperate fully with and assist the temporary Receiver. This cooperation and assistance shall include, but not be limited to, providing any information to the temporary Receiver that the temporary Receiver deems necessary to exercising its authority; providing any password required to access any computer or electronic files in any medium; and discharging the responsibilities of the temporary Receiver under this Order, and advising all persons who owe money to the Receivership Defendants that all debts should be paid directly to the temporary Receiver.

## XI. STAY OF ACTIONS

IT IS FURTHER ORDERED that, except by leave of the Court, during the pendency of the Receivership ordered herein, Defendants and all other persons and entities be and hereby are stayed from taking any action to establish or enforce any claim, right or interest for, against, on behalf of, in, or in the name of, the Receivership Defendants, the temporary Receiver, Receivership assets, or the temporary Receiver's duly authorized agents acting in their capacities as such, including but not limited to, the following actions:

- A. Commencing, prosecuting, litigating or enforcing any suit, except that actions may be filed to toll any applicable statute of limitations;
- B. Accelerating the due date of any obligation or claimed obligation, enforcing any lien upon, or taking or attempting to take possession of, or retaining possession of, property of the Receivership Defendants or any property claimed by the Receivership Defendants, or attempting to foreclose, forfeit, alter or terminate any of the Receivership Defendants' interests in property, whether such acts are part of a judicial proceeding or otherwise;
- C. Using self-help or executing or issuing, or causing the execution or issuance of any court attachment, subpoena, replevin, execution or other process for the purpose of impounding or taking possession of or interfering with, or creating or enforcing a lien upon any property, wherever located, owned by or in the possession of the Receivership Defendants, or the temporary Receiver, or any agent of the temporary Receiver; and
- D. Doing any act or thing to interfere with the temporary Receiver taking control, possession or management of the property subject to the Receivership, or to in any way interfere with the temporary Receiver or the duties of the temporary Receiver; or to interfere with the exclusive jurisdiction of this Court over the property and assets of the Receivership Defendants.

This Paragraph does not stay the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power.

## **XII. COMPENSATION OF RECEIVER**

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

## **XIII. RECEIVER'S BOND**

IT IS FURTHER ORDERED that the temporary Receiver shall file with the Clerk of this Court within seven (7) days of the entry of this order a bond in the sum of \$ 10,000.00 with sureties to be approved by the Court, conditioned that the temporary Receiver will well and truly perform the duties of the office and abide by and perform all acts the Court directs.

## **XIV. MAINTENANCE OF RECORDS**

IT IS FURTHER ORDERED that all Defendants are restrained and enjoined from directly or indirectly destroying, mutilating, erasing, altering, concealing or disposing of, in any manner, directly or indirectly, any documents that relate to the business practices or business or personal finances of any Corporate Defendant or Individual Defendant.

## **XV. ACCESS TO RECORDS AND PREMISES**

IT IS FURTHER ORDERED that the temporary Receiver and the Defendants shall allow representatives of the Commission immediate access to all premises where the Defendants are conducting business or have conducted business and to all premises where Defendants' documents may be located, so that the representatives of the Commission may inspect all business and financial documents of the Defendants and may copy such documents either on or

off the premises. To the extent that documents are located at the homes of Individual Defendants, such documents shall be turned over to the temporary Receiver within 72 hours of service of the Temporary Restraining Order issued in this case.

#### **XVI. SERVICE OF ORDER BY FAX**

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission, upon any financial institution or other entity or person that may have possession, custody, or control of any documents or assets of any Corporate Defendant or Individual Defendant, or that may be subject to any provision of this Order.

#### **XVII. BANKRUPTCY PETITIONS**

IT IS FURTHER ORDERED that, in light of the appointment of the temporary Receiver, the Receivership Defendants are hereby prohibited from filing a petition for relief under the United States Bankruptcy Code, 11 U.S.C. § 101 et seq., without prior permission from this Court.

#### **XVIII. CONSUMER CREDIT REPORTS**

IT IS FURTHER ORDERED that, pursuant to Section 604 of the Fair Credit Reporting Act, 15 U.S.C. §1681b, any consumer reporting agency may furnish the Commission or the temporary Receiver with a consumer report concerning any Defendant.

#### **XIX. SERVICE ON THE COMMISSION**

IT IS FURTHER ORDERED that, with regard to any correspondence, pleadings, or notifications related to this Order, service on the Commission shall be performed by personal or facsimile delivery (but not delivery by U.S. Mail) to the attention of Harold Kirtz, Counsel for the Commission, at the Federal Trade Commission, 225 Peachtree Street, Suite 1500, Atlanta, Georgia 30303, facsimile number (404)656-1379 before 5:00 pm (EDT) of the day that such

service is due.

#### **XX. PAPERS ON MOTION FOR PRELIMINARY INJUNCTION**

IT IS FURTHER ORDERED that, pursuant to Fed. R. Civ. P. 6(d), memoranda and affidavits, if any, supporting or opposing the motion for preliminary injunction shall be served not later than one day before the preliminary injunction hearing.

#### **XXI. WITNESS IDENTIFICATION**

IT IS FURTHER ORDERED that, if the Defendants intend to present the testimony of any witness at the hearing to show cause in this matter, they shall, at least twenty-four (24) hours prior to the scheduled date and time of hearing, serve on counsel for the Plaintiff a statement of the name, address, and telephone number of any such witness, at a mutually agreed upon address.

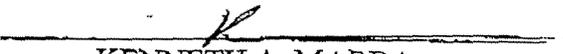
#### **XXII. PRELIMINARY INJUNCTION HEARING**

IT IS FURTHER ORDERED that each of the Corporate Defendants and Individual Defendants shall appear before this Court on the 5<sup>th</sup> day of October, 2005, at 9:00 o'clock a.m. at the United States Courthouse, Room 207, to show cause, if any there be, why this Court should not enter a preliminary injunction, pending final ruling on the Complaint, against said Defendants enjoining them from further violations of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a), and the Franchise Rule, 16 C.F.R. Part 436, continuing the freeze of their assets, appointing a permanent Receiver, and imposing such additional relief as may be appropriate.

## XXIII. COURT'S RETENTION OF JURISDICTION

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

SO ORDERED, this 27<sup>th</sup> day of <sup>SEPT. 27</sup>~~October~~, 2005, at this hour of 9:22 A.M.

  
KENNETH A. MARRA  
United States District Judge