

FILED

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

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MIDDLE DISTRICT OF FLORIDA  
ORLANDO, FL

**FEDERAL TRADE COMMISSION, and**

**OFFICE OF THE ATTORNEY  
GENERAL, STATE OF FLORIDA,  
DEPARTMENT OF LEGAL AFFAIRS,**

**Plaintiffs,**

**v.**

**Case No: 6:16-cv-982-Orl-41TBS**

**LIFE MANAGEMENT SERVICES OF  
ORANGE COUNTY, LLC**, a Florida  
limited liability company,

**[Filed Under Seal]**

**LOYAL FINANCIAL & CREDIT  
SERVICES, LLC**, a Florida limited  
liability company, also d/b/a FOC Credit,  
and Reward Services,

**IVD RECOVERY, LLC**, a Florida limited  
liability company,

**KWP SERVICES, LLC**, a Florida limited  
liability company,

**KWP SERVICES OF FLORIDA, LLC**, a  
Florida limited liability company,

**LPSOFFLA LLC**, a Florida limited  
liability company,

**LPSOFFLORIDA L.L.C.**, a Florida  
limited liability company,

**PW&F CONSULTANTS OF FLORIDA  
LLC**, a Florida limited liability company,

**UAD SECURE SERVICES LLC**, a  
Florida limited liability company,

**UAD SECURE SERVICE OF FL LLC**, a Florida limited liability company,

**URB MANAGEMENT, LLC**, a Florida limited liability company,

**YCC SOLUTIONS LLC**, a Florida limited liability company,

**YFP SOLUTIONS LLC**, a Florida limited liability company,

**KEVIN W. GUICE**, individually and as an officer of **LOYAL FINANCIAL & CREDIT SERVICES, LLC**,

**CHASE P. JACKOWSKI**, individually and as an officer of **LPSOFFLA LLC**, **LPSOFFLORIDA L.L.C.**, and **YFP SOLUTIONS LLC**,

**LINDA N. MCNEALY**, individually and as an officer of **LOYAL FINANCIAL & CREDIT SERVICES, LLC**,

**CLARENCE H. WAHL**, a/k/a Harry C. Wahl, individually and as an officer of **KWP SERVICES OF FLORIDA, LLC** and **LIFE MANAGEMENT SERVICES OF ORANGE COUNTY, LLC**,

**KAREN M. WAHL**, individually and as an officer of **KWP SERVICES, LLC**,

**Defendants, and**

**ROBERT GUICE**, individually,

**TIMOTHY WOODS**, individually,

**Relief Defendants.**

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**TEMPORARY RESTRAINING ORDER**

Plaintiffs, the Federal Trade Commission (“FTC”), and the Office of the Attorney General, State of Florida, Department of Legal Affairs (“State of Florida”), have filed their Complaint for Permanent Injunction and Other Equitable Relief pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108, and the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes (“FDUTPA”) (Doc. S-1), and have moved, pursuant to Federal Rule of Civil Procedure 65(b), for an *ex parte* Temporary Restraining Order, Asset Freeze, Appointment of a Temporary Receiver, Immediate Access, Other Equitable Relief, and an Order to Show Cause Why a Preliminary Injunction Should Not Issue against Defendants Life Management Services of Orange County, LLC, Loyal Financial & Credit Services, LLC, IVD Recovery, LLC, KWP Services, LLC, KWP Services of Florida LLC, LPSofFLA LLC, LPSofFlorida L.L.C., PW&F Consultants of Florida LLC, UAD Secure Service of FL LLC, UAD Secure Services LLC, URB Management, LLC, YCC Solutions LLC, YFP Solutions LLC, Kevin W. Guice, Chase P. Jackowski, Linda N. McNealy, Clarence H. Wahl, and Karen M. Wahl, and Relief Defendants Robert Guice and Timothy Woods (Doc. S-11).

The Court, having considered the Complaint, the *ex parte* motion for a temporary restraining order, and all declarations, exhibits, and the memorandum of points and authorities attached in support, and being otherwise advised, **GRANTS** Plaintiffs’ motion for a temporary restraining order and **FINDS** and **ORDERS** as follows:

#### I. FINDINGS

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

- B. There is good cause to believe that Defendants have engaged in and are likely to engage in acts or practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a); the FTC's Trade Regulation Rule entitled the "Telemarketing Sales Rule" ("TSR"), 16 C.F.R. Part 310; and Section 501.204 of the FDUTPA, Chapter 501, Part II, and that Plaintiffs are therefore likely to prevail on the merits of this action.
- C. There is good cause to believe that immediate and irreparable harm will result from Defendants' ongoing violations of the FTC Act, the TSR, and Section 501.204 of the FDUTPA unless Defendants are restrained and enjoined by Order of this Court.
- D. There is good cause to believe that Relief Defendants Robert Guice and Timothy Woods have received funds that can be traced directly to Defendants' deceptive acts or practices, and that they have no legitimate claim to those funds.
- E. There is good cause to believe that immediate and irreparable damage to this Court's ability to grant effective final relief for consumers (including monetary restitution, rescission, disgorgement, or refunds) will occur from the sale, transfer, destruction, or other disposition or concealment by Defendants or Relief Defendants of assets, documents, records, or other evidence if Defendants are provided with advance notice of Plaintiffs' application, Defendants' and Relief Defendants' assets are not frozen, and Corporate Defendants are not placed into receivership. Therefore, there is good cause for the Court to (1) issue this Order without prior notice to Defendants or Relief Defendants pursuant to Federal Rule of Procedure 65(b); (2) appoint a Temporary Receiver over the Corporate Defendants; (3) freeze Defendants' and Relief Defendants' assets; (4) grant Plaintiffs' and the Temporary Receiver immediate access to Defendants' business premises; (5) authorize Plaintiffs to take expedited discovery; and (6) order the ancillary relief described below.

- F. Weighing the equities and considering Plaintiffs' likelihood of ultimate success on the merits, it is in the public interest that the Court enter an *ex parte* Temporary Restraining Order that temporarily: (1) enjoins Defendants from making misrepresentations, failing to make disclosures of material facts, violating the TSR, and violating Section 501.204 of the FDUTPA; (2) appoints a Receiver over Corporate Defendants; (3) freezes Defendants' and Relief Defendants' assets; (4) orders Defendants and Relief Defendants to show cause why a preliminary injunction should not issue; and (5) provides other equitable relief.
- G. No security is required of any agency of the United States for issuance of a temporary restraining order. Fed. R. Civ. P. 65(c). For the reasons stated in the Florida Attorney General's motion (Doc. S-7) for a waiver of the security requirement, the State of Florida is not required as a co-plaintiff with the FTC to give security before the issuance of this temporary restraining order.

## II. DEFINITIONS

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

- A. **"Corporate Defendants"** means Life Management Services of Orange County, LLC, Loyal Financial & Credit Services, LLC, IVD Recovery, LLC, KWP Services, LLC, KWP Services of Florida LLC, LPSoFFLA LLC, LPSoFlorida L.L.C., PW&F Consultants of Florida LLC, UAD Secure Service of FL LLC, UAD Secure Services LLC, URB Management, LLC, YCC Solutions LLC, and YFP Solutions LLC, and their divisions, subsidiaries, affiliates, predecessors, successors, and assigns, and any fictitious business entities or business names created or used by these entities, or any of them.
- B. **"Debt Relief Product or Service"** means any product, service, plan, or program

represented, expressly or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of the debt or obligation between a Person and one or more creditors or debt collectors, including a reduction in the balance, interest rate, or fees owed by a Person to a creditor or debt collector.

- C. **“Defendants”** means all of the Individual Defendants and Corporate Defendants, individually, collectively, or in any combination, and each of them by whatever names each might be known.
- D. **“Individual Defendants”** means Kevin W. Guice, Chase P. Jackowski, Linda N. McNealy, Clarence H. Wahl, and Karen M. Wahl, and by whatever other names each may be known.
- E. **“National Do Not Call Registry”** means the registry of telephone numbers maintained by the FTC, pursuant to Section 310.4(b)(1)(iii)(B) of the TSR, 16 C.F.R. § 310.4(b)(1)(iii)(B), of Persons who do not wish to receive Outbound Telephone Calls to induce the purchase of goods or services.
- F. **“Outbound Telephone Call”** means a telephone call initiated by a Telemarketer to induce the purchase of goods or services or to solicit a charitable contribution.
- G. **“Person”** means a natural person, organization, or other legal entity, including a corporation, partnership, proprietorship, association, cooperative, government or governmental subdivision or agency, or any other group or combination acting as an entity.
- H. **“Receiver”** or **“Temporary Receiver”** means the individual appointed as receiver or temporary receiver appointed in Section **Error! Reference source not found.** of this Order and any deputy receivers that shall be named by the temporary receiver.
- I. **“Relief Defendants”** means Robert Guice and Timothy Woods.

- J. **“Representatives”** means Defendants’ officers, agents, employees, attorneys, or any other Person in active concert or participation with any of them who receive actual notice of this Order.
- K. **“Telemarketer”** means any Person who, in connection with Telemarketing, initiates or receives telephone calls to or from a customer or donor.
- L. **“Telemarketing”** means any plan, program, or campaign that is conducted to induce the purchase of goods or services or a charitable contribution by use of one or more telephones.

### **III. PROHIBITED BUSINESS ACTIVITIES**

It is hereby **ORDERED** that Defendants and Defendants’ Representatives, whether acting directly or indirectly, in connection with promoting or offering for sale any good or service, including any Debt Relief Product or Service, are temporarily restrained and enjoined from:

- A. Misrepresenting, or assisting others in misrepresenting, expressly or by implication, any of the following:
1. That consumers who use Defendants’ services will have their credit-card interest rates reduced substantially and permanently;
  2. That consumers who use Defendants’ services will save thousands of dollars in a short time;
  3. That consumers who use Defendants’ services will be able to pay off their credit-card debts much faster, typically three to five times faster;
  4. That Defendants can obtain money from a government fund, paid for by credit-card companies, that Defendants will use to pay off consumers’ credit-card debts within 18 months;
  5. That Defendants are representatives of, or otherwise affiliated with, consumers’

banks or other credit-card issuers, or credit-card associations such as MasterCard and Visa; or

6. Any other fact material to consumers concerning any good or service, such as: the total costs; any material restrictions, limitations or conditions; or any material aspect of its performance, efficacy, nature, or central characteristics;
- B. Representing, or assisting others in representing, expressly or by implication, the benefits, performance, or efficacy of any good or service, unless the representation is non-misleading, and, at the time such representation is made, Defendants possess and rely upon competent and reliable evidence to substantiate that the representation is true; and
- C. Failing to disclose, or disclose adequately, the material terms and conditions of Defendants' offer, including that Defendants' services may result in a consumer having to pay a variety of fees to credit-card issuers including, among others, balance-transfer fees, which can total three to five percent of a consumer's credit-card debt.

#### **IV. PROHIBITIONS REGARDING TELEMARKETING**

It is **FURTHER ORDERED** that Defendants and Defendants' Representatives, whether acting directly or indirectly, in connection with Telemarketing of any product or service, including any Debt Relief Product or Service, are temporarily restrained and enjoined from:

- A. Initiating, or causing others to initiate, an Outbound Telephone Call:
1. That misrepresents, directly or by implication, any material aspect of any Debt Relief Product or Service, including the amount of money or the percentage of the debt amount that a consumer may save by using such service and the amount of time necessary to achieve the represented results;
  2. That misrepresents, directly or by implication, an affiliation with consumers' banks



or other credit-card issuers, or credit-card associations such as MasterCard and Visa;

3. That fails to disclose, in a clear and conspicuous manner, that any Debt Relief Product or Service might result in a consumer having to pay additional fees to a credit-card issuer;
  4. That fails to disclose that any Debt Relief Product or Service that relies upon a consumer's failure to make timely payments to creditors or debt collectors, will likely adversely affect the consumer's creditworthiness, may result in the consumer being subject to collections or sued by creditors or debt collectors, and may increase the amount of money the consumer owes due to the accrual of fees and interest;
  5. To a Person whose telephone number is on the National Do Not Call Registry;
  6. That delivers a prerecorded message;
  7. To a telephone number within a given area code when Defendants have not, either directly or through another Person, paid the required annual fee for access to the telephone numbers within that area code that are included on the National Do Not Call Registry;
- B. Requesting or receiving payment of any fee or consideration from a consumer for any Debt Relief Products or Services until and unless Defendants have renegotiated, settled, reduced, or otherwise altered the terms of at least one debt pursuant to a settlement agreement, debt management plan, or other such valid contractual agreement executed by the consumer and the consumer has made at least one payment pursuant to that settlement agreement, debt management plan, or other valid contractual agreement between the consumer and the creditor or debt collector; or

- C. Violating any provision of the Telemarketing Sales Rule, 16 C.F.R. Part 310, attached as **Attachment A.**

**V. ASSET FREEZE**

It is **FURTHER ORDERED** that Defendants, Relief Defendants, and their Representatives, whether acting directly or indirectly, are temporarily restrained and enjoined from:

- A. Transferring, liquidating, converting, encumbering, pledging, loaning, selling, concealing, dissipating, disbursing, assigning, relinquishing, spending, withdrawing, granting a lien or security interest or other interest in, or otherwise disposing any funds, real or personal property, accounts, contracts, shares of stock, lists of consumer names, or other assets, or any interest therein, wherever located, including outside the United States, that are:
1. owned, controlled, or held, in whole or in part, by any Defendant or Relief Defendant;
  2. held, in whole or in part, for the direct or indirect benefit of, any Defendant or Relief Defendant;
  3. in the actual or constructive possession of any Defendant or Relief Defendant;
  4. held by an agent of any Defendant or Relief Defendant as a retainer for the agent's provision of services to Defendants or Relief Defendants;
  5. owned or controlled by, or in the actual or constructive possession of, or otherwise held for the benefit of, any corporation, partnership, asset protection trust, or other entity that is directly or indirectly owned, managed, or controlled by any Defendant or Relief Defendant, or of which any Defendant or Relief Defendant is an officer, director, manager, or member. This includes, but is not limited to, any assets held

by, for, or subject to access by, any Defendant or Relief Defendant at any bank, credit union, or savings and loan institution, or at/with any broker-dealer, retirement fund custodian, money market or mutual fund, trustee, escrow agent, title company, insurance company, commodity trading company, precious metal dealer, payment processor, credit card processor, acquiring bank, merchant bank, independent sales organization, third party processor, payment gateway, automated clearing house processor, network transaction processor, bank debit processing agent, or other financial institution or depository of any kind, either within or outside the United States; or

6. held in any account for which any Defendant or Relief Defendant is, or was on the date that this Order was signed, an authorized signer;
- 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 Relief Defendant, either individually or jointly, or subject to access by, or under the control of, any Defendant or Relief Defendant;
  - C. Incurring liens or other encumbrances on real property, personal property, or other assets in the name, individually or jointly, of any Defendant or Relief Defendant or of any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by any Defendant or Relief Defendant;
  - D. Incurring charges or cash advances on any credit or bank card issued in the name of any Corporate Defendant, or for which payment is guaranteed by any Corporate Defendant. This includes, but is not limited to, any corporate bank card or corporate credit card account held by any Corporate Defendant and for which any Defendant or Relief Defendant is, or was on the date that this Order was signed, an authorized signer; and

- E. Cashing any checks or depositing or processing any payments from consumers, clients, or customers of any Defendant;

**PROVIDED** that the funds, property, and assets affected by this Section shall include all assets of all Defendants and Relief Defendants: (1) existing as of the date this Order was entered; or (2) acquired after entry of this Order from any activity that is the subject of, or is prohibited by, this Order.

**VI. DUTIES OF HOLDERS OF DEFENDANTS' AND RELIEF DEFENDANTS' ASSETS**

It is **FURTHER ORDERED** that any Person that: (a) is served with a copy of this Order or has actual or constructive knowledge of this Order; and (b) holds, controls, or maintains custody of, or has held, controlled, or maintained custody of at any time since January 2011, any account or asset (including reserve funds held by payment processors, credit card processors, payment merchant banks, acquiring banks, independent sales organizations, third party processors, payment gateways, insurance companies, or other entities) of any Defendant, Relief Defendant, or any corporation, partnership, asset protection trust, or other entity that is directly or indirectly owned, managed, or controlled by any Defendant or Relief Defendant, or of which any Defendant or Relief Defendant is an officer, director, manager, or member shall:

- A. Hold and retain within its control and prohibit the withdrawal, removal, assignment, transfer, pledge, encumbrance, disbursement, dissipation, relinquishment, conversion, sale, liquidation, or other disposal of any such accounts or assets, as well as all documents or other property related to such accounts or assets;
- B. Deny any Person, except the Receiver, access to any safe deposit box, commercial mail box, or storage facility that is titled in the name of any Defendant or Relief Defendant, either individually or jointly, or otherwise subject to access by any Defendant or Relief

Defendant;

- C. Provide Plaintiffs' counsel and the Receiver, within five (5) days of receiving a copy of this Order, a sworn statement setting forth:
1. the identification number of each such account or asset;
  2. the balance of each such account, or a description of the nature and value of each such asset as of the close of business on the day on which this Order is served and, if the account or 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 asset was remitted; and
  3. the identification of any safe deposit box, commercial mail box, or storage facility that is either titled in the name, individually or jointly, of any Defendant or Relief Defendant, or is otherwise subject to access by any Defendant or Relief Defendant; and
- D. Within five (5) days of a request from any Plaintiff or the Receiver, promptly provide Plaintiffs and the Receiver with copies of all records or other documents pertaining to such account or asset, including originals or copies of account applications, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, including wire transfers and wire transfer instructions, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and all logs and records pertaining to such safe deposit boxes, commercial mail boxes, and storage facilities.
- E. Plaintiffs may properly serve this Order by facsimile transmission, hand delivery, or overnight carrier. This Section shall apply to existing accounts and assets, assets deposited or accounts opened after the effective date of this Order, and any accounts or assets

maintained, held, or controlled since January 2011. This Section shall not prohibit transfers in accordance with any provision of this Order, any further order of the Court, or by written agreement of the parties.

## VII. FINANCIAL REPORTS

It is **FURTHER ORDERED** that each Defendant and Relief Defendant, within five (5) days of service of this Order upon them, shall prepare and deliver to Counsel for Plaintiffs and the Receiver:

- A. Completed financial statements on the forms attached to this Order as **Attachment B** (Financial Statement of Individual Defendant) for themselves individually, and **Attachment C** (Financial Statement of Corporate Defendant) for each business entity under which they conduct business or of which they are an officer, director, member, or manager and for each trust for which any Defendant or Relief Defendant is a trustee. The financial statements shall be accurate as of the date of entry of this Order and signed under penalty of perjury. Each Defendant and Relief Defendant shall include in the financial statements all information requested in the statements, including a full listing, verified under oath, of all accounts, funds, and assets, whether located inside or outside of the United States, that are: (a) titled in the name of such Defendant or Relief Defendant, jointly, severally, or individually; (b) held by any Person or entity for the benefit of such Defendant or Relief Defendant; or (c) under the direct or indirect control of such Defendant or Relief Defendant. Defendants and Relief Defendants shall attach to these completed financial statements copies of all local, state, provincial, and federal income and property tax returns, with attachments and schedules, as called for by the instructions to the financial statements; and

- B. A completed IRS Form 4506, appended to this Order as **Attachment D**, requesting tax returns for the past five years (2011-2015).

### **VIII. CONSUMER CREDIT REPORTS**

It is **FURTHER ORDERED** that Plaintiffs may obtain credit reports concerning any Defendant or Relief Defendant pursuant to Section 604(a)(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(1), and that, upon written request, any credit reporting agency from which such reports are requested shall provide them to Plaintiffs.

### **IX. FOREIGN ASSET REPATRIATION**

It is **FURTHER ORDERED** that within five (5) days following the service of this Order, each Defendant and Relief Defendant shall:

- A. Provide Plaintiffs and the Receiver with a full accounting, verified under oath and accurate as of the date of this Order, of all documents and assets located outside of the United States of America that are held by or for any Defendant or Relief Defendant or are under any Defendant's or Relief Defendant's direct or indirect control, jointly, severally, or individually, including the names and addresses of any foreign or domestic financial institution or other entity holding the documents and assets, along with the account numbers and balances;
- B. Provide Plaintiffs and the Receiver access to all records of accounts or assets of any Defendant or Relief Defendant held by Persons located outside the United States by signing and delivering to Plaintiffs' counsel and the Receiver the Consent to Release of Financial Records attached to this Order as **Attachment E**; and
- C. Transfer to the United States and deliver to the Receiver all funds, documents, and assets located outside of the United States of America that are held by or for any Defendant or

Relief Defendant or are under any Defendant's or Relief Defendant's direct or indirect control, jointly, severally, or individually.

**X. NON-INTERFERENCE WITH REPATRIATION**

It is **FURTHER ORDERED** that Defendants, Relief Defendants, and their Representatives, whether acting directly or indirectly, are temporarily restrained and enjoined from taking any action, directly or indirectly, that may result in the encumbrance or dissipation of foreign assets, or in the hindrance of the repatriation required by Section IX of this Order, including:

- A. Sending any communication 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 Section IX of this Order; or
- 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 Defendants' assets have been fully repatriated pursuant to Section IX of this Order.

**XI. PRESERVATION OF RECORDS**

It is **FURTHER ORDERED** that Defendants, Relief Defendants, and their Representatives, whether acting directly or indirectly, are temporarily restrained and enjoined from:

- A. Destroying, erasing, falsifying, writing over, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, documents, including electronically stored materials, that relate to: (1) the business, business practices, assets, or business or personal



finances of any Defendant, Relief Defendant, or any entity directly or indirectly under the control of any Defendant or Relief Defendant; (2) any webpage or website operated, in whole or in part, on any Defendants' behalf; and (3) any electronic communication sent or received by Defendants or Relief Defendants; and

- B. Failing to create and maintain documents that, in reasonable detail, accurately, fairly, and completely reflect Defendants' and Relief Defendants' incomes, disbursements, transactions, and use of Defendants' and Relief Defendants' assets.

## **XII. REPORT OF NEW BUSINESS ACTIVITY**

It is **FURTHER ORDERED** that Defendants and their Representatives, whether acting directly or indirectly, are temporarily restrained and enjoined from creating, operating, or exercising any control over any new business entity, whether newly formed or previously inactive, including any partnership, limited partnership, joint venture, sole proprietorship, or corporation, without first providing counsel for Plaintiffs with a written statement disclosing: (1) the name of the business entity; (2) the address and telephone number of the business entity; (3) the names of the business entity's officers, directors, principals, managers, members, and employees; and (4) a detailed description of the business entity's intended activities.

## **XIII. PROHIBITION ON RELEASE OF CONSUMER INFORMATION**

It is **FURTHER ORDERED** that Defendants and their Representatives, whether acting directly or indirectly, are temporarily restrained and enjoined from directly or indirectly disclosing, using, or benefitting from customer information, including the name, address, telephone number, credit card number, bank account number, email address, or other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), that any Defendant obtained prior to entry of this Order in connection with any

activity that pertains to Debt Relief Services; provided, however, that Defendants may disclose such identifying information to a law enforcement agency or as required by any law, regulation, or court order.

#### **XIV. APPOINTMENT OF TEMPORARY RECEIVER**

It is **FURTHER ORDERED** that **MARK J. BERNET, Esq.** is appointed Temporary Receiver for Corporate Defendants and any of their affiliates, subsidiaries, divisions, or telephone sales or customer service operations, wherever located, with the full power of an equity receiver, including full power over all funds, assets, accounts, collateral, premises (whether owner, leased, occupied, or otherwise controlled), choses in action, documents, and other property belonging to, being managed by, or in the possession of or control of Corporate Defendants. The Receiver shall be solely the agent of this Court in acting as Receiver under this Order and is immediately authorized, empowered, and directed to:

- A. Assume full control and manage and administer the business of Corporate Defendants by performing all incidental acts that the Receiver deems to be advisable or necessary, including removing, as the Receiver deems necessary or advisable, any director, officer, manager, member, independent contractor, employee, or agent of any Corporate Defendant, including any Individual Defendant, from control of, management of, or participation in, the affairs of Corporate Defendants;
- B. Take exclusive custody, control, and possession of all assets and documents of, or in the possession, custody, or under the control of, Corporate Defendants, wherever situated;
- C. Conserve, hold, manage, and prevent the loss of all assets of Corporate Defendants, and perform all acts necessary or advisable to preserve the value of those assets. The Receiver shall assume control over the income and profits therefrom and all sums of money now or

hereafter due or owing to Corporate Defendants. The Receiver shall have full power to sue for, collect and receive, take in possession, hold, and manage all assets of Corporate Defendants and other Persons whose interests are now under the direction, possession, custody, or control of Corporate Defendants. Provided, however, that the Receiver shall not attempt to collect any amount from a consumer if the Receiver believes the consumer's debt to Corporate Defendants has resulted from the deceptive acts or practices or other violations of law alleged in the Complaint in this matter, without prior Court approval;

- D. Obtain, conserve, hold, manage, and prevent the loss of all documents of Corporate Defendants, and perform all acts necessary or advisable to preserve such documents. The Receiver shall: divert mail; preserve all documents of Corporate Defendants that are accessible via electronic means (such as online access to financial accounts and remote access to electronic documents held by cloud service providers, email service providers and web hosts), by changing usernames, passwords or other log-in credentials for any online account titled in the name of a Corporate Defendant or which in the Receiver's judgment has been used in furtherance of any Corporate Defendant's business practices; take possession of all electronic documents of Corporate Defendants stored remotely; copy all such documents; and obtain the assistance of the FTC's litigation support staff for the purpose of obtaining electronic documents stored remotely;
- E. Choose, engage, and employ attorneys, accountants, appraisers, and other independent contractors and technical specialists, as the Receiver deems advisable or necessary in the performance of duties and responsibilities under the authority granted by this Order;
- F. 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, and to incur, or authorize the making of, such agreements as may be necessary and advisable in discharging his or her duties as Receiver. The Receiver shall apply to the Court for prior approval of any payment of any debt or obligation incurred by Corporate Defendants prior to the date of entry of this Order, except payments that the Receiver deems necessary or advisable to secure assets of Corporate Defendants, such as rental payments;
- G. Suspend business operations of Corporate Defendants if in the judgment of the Receiver such operations cannot be continued legally or profitably;
- H. Take all steps necessary to secure and take exclusive custody of each location from which Corporate Defendants operate their businesses. Such steps may include, but are not limited to, any of the following, as the Receiver deems necessary or advisable: (1) securing the location by changing the locks and alarm codes and disconnecting any internet access or other means of access to the computers, internet or other records maintained at that location; and (2) requiring any persons present at the location to leave the premises, to provide the Receiver with proof of identification, and/or to demonstrate to the satisfaction of the Receiver that such persons are not removing from the premises documents or assets of the Receivership Defendants. Plaintiffs and Receiver are authorized to employ the assistance of law enforcement personnel to effect service, to implement peacefully the provisions of this order, and to keep the peace and maintain security;
- I. Take all steps necessary to ensure that any of Corporate Defendants' web pages or websites relating to Debt Relief Services cannot be accessed by the public, or are modified for consumer education and/or informational purposes, and take all steps necessary to ensure that any telephone numbers associated with Corporate Defendants cannot be accessed by the public, or are answered solely to provide consumer education or information regarding

- the status of operations;
- J. Enter into and cancel contracts, and purchase insurance as advisable or necessary;
  - K. Prevent the inequitable distribution of assets and determine, adjust, and protect the interests of consumers and creditors who have transacted business with Corporate Defendants;
  - L. Make an accounting, as soon as practicable, of the assets and financial condition of the receivership and to file the accounting with the Court and deliver copies thereof to all parties;
  - M. Institute, compromise, adjust, appear in, intervene in, defend, adjust, dispose of, or otherwise become party to any legal action in state, federal, or foreign courts or arbitration proceedings as the Receiver deems necessary and advisable to preserve or recover the assets of Corporate Defendants, or to carry out the Receiver's mandate under this Order, including actions challenging fraudulent or voidable transfers;
  - N. Issue subpoenas to obtain documents and records pertaining to the receivership, and conduct discovery in this action on behalf of the receivership estate;
  - O. Open one or more bank accounts as designated depositories for funds of Corporate Defendants. The Receiver shall deposit all funds of Corporate Defendants in such a designated account and shall make all payments and disbursements from the receivership estate from such an account. The Receiver shall serve copies of monthly account statements on all parties;
  - P. Maintain accurate records of all receipts and expenditures incurred as Receiver;
  - Q. Allow the Plaintiffs' representatives, agents, and assistants, as well as Defendants' representatives and Defendants themselves, reasonable access to the premises of Corporate Defendants, or any other premises where Corporate Defendants conduct operations. The

purpose of this access shall be to inspect and copy any and all books, records, documents, accounts, and other property owned by, or in the possession of, Corporate Defendants or their agents. The Receiver shall have the discretion to determine the time, manner, and reasonable conditions of such access;

- R. Allow Plaintiffs' representatives, agents, and assistants, as well as Defendants and their representatives reasonable access to all documents in the possession, custody, or control of Corporate Defendants, including electronic documents;
- S. Cooperate with reasonable requests for information or assistance from any state or federal civil or criminal law enforcement agency; and
- T. File timely reports with the Court at reasonable intervals, or as otherwise directed by the Court.

#### **XV. TRANSFER OF RECEIVERSHIP PROPERTY TO RECEIVER**

It is **FURTHER ORDERED** that Defendants and their Representatives, and any other Person with possession, custody, or control of property of, or records relating to, Corporate Defendants shall, upon notice of this Order by personal service or otherwise, fully cooperate with and assist the Receiver in taking and maintaining possession, custody, or control of the assets and documents of Corporate Defendants and immediately transfer or deliver to the Receiver possession, custody, or control of, the following:

- A. All assets of Corporate Defendants;
- B. All documents of Corporate Defendants, including 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, electronic documents, and other papers;

- C. All computers, electronic devices, mobile devices, and machines and data in whatever form used to conduct the business of Corporate Defendants;
- D. All assets and documents belonging to other Persons whose interests are under the direction, possession, custody, or control of Corporate Defendants; and
- E. All keys, codes, user names, and passwords necessary to gain or to secure access to any assets or documents of Corporate Defendants, including access to their business premises, means of communication, accounts, computer systems, or other property.

In the event that any Person fails to deliver or transfer any asset or document, or otherwise fails to comply with any provision of this Section, the Receiver may file an Affidavit of Non-Compliance regarding the failure and a motion seeking compliance or a contempt citation.

#### **XVI. PROVISION OF INFORMATION TO RECEIVER**

It is **FURTHER ORDERED** that Defendants shall provide to the Receiver, immediately upon request, the following:

- A. A list of all assets and property, including accounts, of Corporate Defendants that are held in any name other than the name of a Corporate Defendant, or by any Person other than a Corporate Defendant; and
- B. A list of all agents, employees, officers, directors, managers, members, or those Persons in active concert and participation with Defendants, who have been associated or done business with Corporate Defendants. Such list should include every entity that provides leads to Corporate Defendants.

#### **XVII. COOPERATION WITH THE RECEIVER**

It is **FURTHER ORDERED** that Defendants, Relief Defendants, their Representatives, and any other Person served with a copy of this Order shall fully cooperate with and assist the

Receiver in taking and maintaining possession, custody, or control of the assets and documents of Corporate Defendants. This cooperation and assistance shall include, but not be limited to: (A) providing information to the Receiver that the Receiver deems necessary to exercise the authority and discharge the responsibilities of the Receiver under this Order; (B) providing any password required to access any computer, electronic file, or telephonic data in any medium; (C) advising all Persons who owe money to Corporate Defendants that all debts should be paid directly to the Receiver; and (D) transferring funds at the Receiver's direction and producing records related to the assets of Corporate Defendants. The entities obligated to cooperate with the Receiver under this provision include, but are not limited to, banks, broker-dealers, savings and loans, escrow agents, title companies, commodity trading companies, precious metals dealers, credit card processors, payment processors, merchant banks, acquiring banks, independent sales organizations, third party processors, payment gateways, insurance companies, and other financial institutions and depositories of any kind, as well as all common carriers, telecommunications companies, and third-party billing agents.

#### **XVIII. NON-INTERFERENCE WITH THE RECEIVER**

It is **FURTHER ORDERED** that Defendants, Relief Defendants, and their Representatives, whether acting directly or indirectly, and all other Persons are temporarily restrained and enjoined from:

- A. Interfering with the Receiver's efforts to manage, or take custody, control, or possession of, the assets or documents subject to this receivership;
- B. Transacting any of the business of Corporate Defendants;
- C. Transferring, receiving, altering, selling, encumbering, pledging, assigning, liquidating, or otherwise disposing of any assets owned, controlled, or in the possession or custody of, or



in which an interest is held or claimed by, Corporate Defendants; and

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

**XIX. STAYS OF ACTIONS AGAINST CORPORATE DEFENDANTS**

It is **FURTHER ORDERED** that, except by leave of this Court, during pendency of the receivership ordered herein, Defendants, Relief Defendants, their Representatives, whether acting directly or indirectly, and all other Persons are temporarily restrained and enjoined from:

- A. Seeking to establish or enforce any claim, right, or interest against or on behalf of any Corporate Defendant;
- B. Commencing, prosecuting, continuing, enforcing, or defending any suit or proceeding against or in the name of Corporate Defendants, except that such actions may be commenced if necessary to toll any applicable statute of limitations;
- C. Accelerating the due date of any obligation or claimed obligation, filing or enforcing any lien upon, or taking or attempting to take possession, custody, or control of any asset of any of Corporate Defendants, or attempting to foreclose, forfeit, alter, or terminate any interest in any asset of Corporate Defendants, including the establishment, granting, or perfection of any security interest, whether such acts are part of a judicial proceeding or otherwise;
- D. 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 asset, of any of Corporate Defendants, the Receiver, or any agent appointed by the Receiver; and
- E. Doing any act to interfere with the Receiver taking control, possession, or management of

assets subject to this receivership, or to interfere in any way with the Receiver, or to harass or interfere with the duties of the Receiver; or to interfere in any manner with the exclusive jurisdiction of this Court over the assets of Corporate Defendants, including the filing by the Defendants of a petition for relief under the United States Bankruptcy Code, 11 U.S.C. § 101 et seq., as to any Corporate Defendant.

**PROVIDED THAT**, nothing in this Section shall prohibit any federal or state law enforcement or regulatory authority from commencing or prosecuting an action against Corporate Defendants.

#### **XX. COMPENSATION OF RECEIVER**

It is **FURTHER ORDERED** that the Receiver, and all Persons hired by the Receiver as authorized under this Order, including counsel to the Receiver and accountants, 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, in the possession or control of, or which may be received by, Corporate Defendants. The 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 entry of this Order. The Receiver shall not increase the hourly rates used as the bases for such fee applications without prior approval of the Court.

#### **XXI. RECEIVER'S BOND**

It is **FURTHER ORDERED** that the Receiver shall file with the Clerk of this Court a bond with sureties to be approved by the Court, conditioned that the Receiver will well and truly perform the duties of the office and abide by and perform all acts the Court directs. 28 U.S.C. § 754. The amount of the bond shall be set at the hearing on preliminary injunction.

## **XXII. IMMEDIATE ACCESS TO BUSINESS OFFICES AND RECORDS**

It is **FURTHER ORDERED** that, in order to allow Plaintiffs and the Receiver to preserve assets and evidence relevant to this action and to expedite discovery:

- A. Defendants and their Representatives must immediately identify to Plaintiffs' counsel and the Receiver: (1) all of Corporate Defendants' business premises; (2) any other premises where Corporate Defendants conduct business related to Debt Relief Products or Services; (3) any premises where documents related to the business operations of Corporate Defendants are maintained, including the name and location of any electronic data hosts; and (4) any premises where assets belonging to Defendants are stored and maintained;
- B. Plaintiffs and the Receiver and their counsel, agents, representatives, contractors, and assistants shall have immediate access to all business premises and storage facilities of Corporate Defendants, including the offices located at 12001 Science Drive, Suites 125 and 180, Orlando, Florida 32826;
- C. Plaintiffs and the Receiver may exclude Defendants, Relief Defendants, and their Representatives from Corporate Defendants' business premises and storage facilities during the immediate access;
- D. Plaintiffs and the Receiver and their counsel, agents, representatives, contractors, and assistants are authorized to obtain the assistance of the U.S. Marshal's office and other federal, state, and local law enforcement officers as they deem necessary to effect service and to implement peacefully the provisions of this Order;
- E. Plaintiffs and the Receiver and their counsel, agents, representatives, contractors, and assistants are authorized to remove documents from Corporate Defendants' business premises and storage facilities in order that they may be inspected, inventoried, and copied

for the purpose of preserving discoverable material in connection with this action;

- F. Defendants and their Representatives shall provide Plaintiffs and the Receiver with any necessary means of access to documents including, without limitation, the locations of Corporate Defendants' business premises and storage facilities, keys and combinations to Corporate Defendants' business premises or storage facility locks, access codes of all electronic devices used to conduct Corporate Defendants' business, and storage area access information;
- G. If any property, records, documents, or computer files relating to Corporate Defendants' finances or business practices are located in the residence of any Defendant or Relief Defendant or are otherwise in the custody or control of any Defendant or Relief Defendant, then such Defendant or Relief Defendant shall produce them to Plaintiffs and the Receiver within twenty-four (24) hours of service of this Order, along with any codes or passwords needed for access. In order to prevent the destruction of electronic data, upon service of this Order upon Defendants or Relief Defendants, any computing device (including computers, tablets, and smart-phones) shall be powered down (turned off) in the normal course for the operating systems used on such computers and shall not be powered up or used again until produced for copying and inspection, along with any codes needed for access;
- H. In the event that any Corporate Defendant's documents have been removed from Corporate Defendants' business premises or storage facilities by, and are in the possession of any other law enforcement or investigative agency, Plaintiffs may have immediate access to such documents for purposes of inspection, indexing, and copying, subject to the agency consenting to access by Plaintiffs;

- I. Plaintiffs' or the Receiver's access to Corporate Defendants' documents pursuant to this Section shall not provide grounds for any Defendant or Relief Defendant to object to any subsequent request for documents served by Plaintiffs; and
- J. The Receiver shall allow Defendants reasonable access to the business premises and business records of Corporate Defendants within his possession for the purpose of inspecting and copying materials relevant to this action, although the Receiver shall have the discretion to determine the time, manner, and reasonable conditions of such access.

### **XXIII. DISTRIBUTION OF ORDER BY DEFENDANTS**

It is **FURTHER ORDERED** that:

- A. Within five (5) days following service of this Order, Defendants shall provide a copy of this Order to each of their affiliates, Telemarketers, customer service agents, sale agents, distributors, subsidiaries, successors, assigns, officers, directors, members, managers, employees, independent contractors, client companies, agents, spouses, and attorneys, as well as to any other Person who participates in Defendants' marketing, advertising, promotion, distribution, offer for sale, or sale of Debt Relief Products or Services;
- B. Within seven (7) days following service of this Order, Defendants shall provide Plaintiffs and the Receiver with a sworn statement that Section XXIII (A) has been satisfied, which statement shall include the names, titles, physical addresses, phone numbers, and e-mail addresses of each such Person who received a copy of the Order and the date which such Person received it; and
- C. Defendants shall not take any action that would encourage officers, agents, members, managers, directors, employees, salespersons, independent contractors, attorneys, subsidiaries, affiliates, successors, assigns, or other Persons or entities in active concert or

participation with Defendants to disregard this Order or believe that they are not bound by its provisions.

#### **XXIV. EXPEDITED DISCOVERY**

It is **FURTHER ORDERED** that, notwithstanding the time periods, notice provisions, and other requirements of Federal Rules of Civil Procedure 26(d), 26(f), 30(a)(2)(A), and 31(a)(2)(A), and pursuant to Federal Rules of Civil Procedure 30(a), 34, and 45, Plaintiffs and the Receiver are granted leave, at any time after entry of this Order, to conduct limited expedited discovery as to parties and non-parties for the purpose of discovering: (1) the nature, location, status, and extent of Defendants' and Relief Defendants' assets; (2) the nature and location of documents reflecting Defendants' businesses, business transactions, and operations; (3) the telecommunications providers that Defendants utilize to conduct the practices alleged in Plaintiffs' complaint; (4) Defendants' affiliates and subsidiaries; (5) the nature and location of any premises where Defendants, directly or through any third party, conduct business operations; (6) Defendants' whereabouts; (7) the applicability of any evidentiary privileges to this action; or (8) compliance with this Order. The limited expedited discovery set forth in this Section shall proceed as follows:

- A. Plaintiffs may, on three (3) days' notice, take the deposition of any Person, whether or not a party, in any judicial district. Depositions may be conducted telephonically, by videoconferencing, or in person. Deposition transcripts that have not been signed by the witness may be used at the preliminary injunction hearing in this matter.
- B. Plaintiffs may serve interrogatories upon Defendants and Relief Defendants, and Defendants and Relief Defendants shall respond within five (5) days after Plaintiffs serve such interrogatories.

- C. Plaintiffs may, upon five (5) days' notice, including through the use of a Rule 45 subpoena, demand the production of documents from any Person, whether or not a party, provided that three (3) days' notice shall be deemed sufficient for the production of any such documents that are maintained or stored only in an electronic format.
- D. For purposes of discovery pursuant to this Section, service shall be sufficient if made by facsimile, by email, or by overnight courier.
- E. Any expedited discovery taken pursuant to this Section is in addition to, and is not subject to, the limits on discovery set forth in the Federal Rules of Civil Procedure and Local Rules of this Court.
- F. The expedited discovery permitted by this Section does not require a meeting or conference of the parties, pursuant to Federal Rules of Civil Procedure 26(d) and (f).
- G. The Parties are exempted from making initial disclosures under Federal Rule of Civil Procedure 26(a)(1) until further order of this Court.

#### **XXV. SERVICE OF THIS ORDER**

It is **FURTHER ORDERED** that copies of this Order may be served by U.S. First Class Mail, overnight delivery, facsimile, email, or personal service, by agents or employees of Plaintiffs, by agents or employees of the Receiver, by any law enforcement agency, or by private process server, upon any Person that may have possession, custody, or control of any property, property right, document, or asset of any Defendant or Relief Defendant, or that may be subject to any provision of this Order pursuant to Federal Rule of Civil Procedure 65(d)(2). For purposes of this Section, service upon any branch, subsidiary, affiliate, or office of any financial institution or entity shall effect service upon the entire financial institution or entity. This Order shall bind Persons that may be subject to any provision of this Order pursuant to Federal Rule of Civil

Procedure 65(d)(2) upon such Person's receipt of actual notice, by personal service or otherwise, of this Order.

#### **XXVI. CORRESPONDENCE AND SERVICE ON PLAINTIFFS**

It is **FURTHER ORDERED** that, for the purpose 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 the FTC shall be sent either via electronic transmission or via Federal Express to:

Tejasvi M. Srimushnam (tsrimushnam@ftc.gov)  
Joshua A. Doan (jdoan@ftc.gov)  
Federal Trade Commission  
600 Pennsylvania Avenue NW  
Mail Stop CC-8563  
Washington, DC 20580  
(202) 326-2959 (Srimushnam phone)  
(202) 326-3187 (Doan phone)  
(202) 326-3395 (fax)

Any correspondence, papers, and pleadings related to this order must be served upon the State of Florida by overnight mail, electronic mail, courier delivery, or facsimile to:

Jennifer Knutton (jennifer.knutton@myfloridalegal.com)  
Denise Beamer (denise.beamer@myfloridalegal.com)  
Office of the Attorney General  
Consumer Protection Division  
135 West Central Boulevard, Suite 670  
Orlando, Florida 32801  
Telephone: (407) 316-4840  
Fax: (407) 245-0365

#### **XXVII. PRELIMINARY INJUNCTION HEARING**

It is **FURTHER ORDERED** that, pursuant to Federal Rule of Civil Procedure 65(b), Defendants and Relief Defendants shall appear before this Court on the June 22, 2106, at 2p.m. in



Courtroom 5B at the United States Courthouse located at 401 West Central Boulevard, Orlando, Florida to show cause, if there is any, why this Court should not enter a preliminary injunction enjoining Defendants from further violations of the FTC Act, the TSR, and Section 501.204 of the FDUTPA as alleged in the Complaint, continuing the freeze of their assets and Relief Defendants' assets, continuing the receivership, and imposing such additional relief as may be appropriate pending final adjudication of the Complaint filed in this matter.

**XXVIII. BRIEFS AND AFFIDAVITS CONCERNING PRELIMINARY INJUNCTION**

It is **FURTHER ORDERED** that:

- A. Defendants and Relief Defendants shall file with the Court and serve on Plaintiffs' counsel any answering pleadings, affidavits, motions, expert reports, declarations, and/or legal memoranda no later than seven (7) days prior to the hearing on the Plaintiffs' request for a preliminary injunction. *See* Local Rule 4.06(b)(3).
- B. Plaintiffs may file responsive or supplemental pleadings, materials, affidavits, expert reports, declarations, and/or memoranda with the Court and serve the same on counsel for Defendants and Relief Defendants no later than one (1) day prior to the preliminary injunction hearing in this matter,
- C. The hearing shall be limited to argument of counsel unless the Court grants express leave to the contrary in advance of the hearing. *See* Local Rule 4.06(b).
- D. All affidavits, pleadings, motions, expert reports, declarations, legal memoranda and/or oppositions must be served by personal or overnight delivery, facsimile, or email.

**XXIX. DURATION OF ORDER**

It is **FURTHER ORDERED** that this Temporary Restraining Order shall expire on June 22, 2016, at 11:59 p.m. Eastern Time, unless within such time, the Order is extended for an additional period pursuant to Federal Rule of Civil Procedure 65(b)(2).

**XXX. RETENTION OF JURISDICTION**

It is **FURTHER ORDERED** that this Court shall retain jurisdiction of this matter for all purposes.

**DONE and ORDERED** in Orlando, Florida on June 8, 2016, at 1:02 p.m.



CARLOS E. MENDOZA  
UNITED STATES DISTRICT JUDGE