

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

Case No: 6:17-cv-2048-Orl-41KRS

**HIGHER GOALS MARKETING LLC,
SUNSHINE FREEDOM SERVICES
LLC, BRANDUN L ANDERSON, LEA
A. BROWNELL, MELISSA M. DEESE,
GERALD D. STARR, JR. , TRAVIS L.
TEEL and WAYNE T. NORRIS,**

Defendants.

ORDER

THIS CAUSE is before the Court on Plaintiff's Status Report and Notice of Filing Six Proposed Stipulated Preliminary Injunctions (Doc. 24). Therein, Plaintiff advises the Court that Plaintiff and all Defendants have reached an agreement on a proposed preliminary injunction, including the appointment of a temporary receiver over the Corporate Defendants. Plaintiff submitted the six Proposed Stipulated Preliminary Injunctions for the Court's review. (*See* Doc. Nos. 24-1, 24-2, 24-3, 24-4, 24-5, and 24-6). The Court enters the following preliminary injunctions in accordance with the Six Proposed Stipulated Preliminary Injunctions filed by Plaintiff.

I. STIPULATED PRELIMINARY INJUNCTION AS TO DEFENDANT LEA A. BROWNELL

This matter comes before this Court upon agreement of Plaintiff Federal Trade Commission ("FTC") and Defendant Lea A. Brownell ("Stipulating Defendant") for the entry of a Preliminary Injunction against Stipulating Defendant.

On November 29, 2017, the FTC filed its 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), and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108 (Doc. 1), and has moved, pursuant to Federal Rule of Civil Procedure 65(b), for a temporary restraining order, asset freeze, appointment of a temporary receiver, other equitable relief, and an order to show cause why a preliminary injunction should not issue against Brandun L. Anderson, Lea A. Brownell, Melissa M. Deese, Wayne T. Norris, Gerald D. Starr, Jr., Travis L. Teel, Higher Goals Marketing LLC, and Sunshine Freedom Services, LLC. (Doc. 14). The FTC and Stipulating Defendant have consented to entry of this Order, to remain in effect until the final resolution of this matter. The FTC and Stipulating Defendant have also consented that the FTC shall have the same right to documents, information, and access of a receiver if the Court declines to appoint a receiver.

The Court **FINDS** and **ORDERS** as follows:

A. Findings

A. This Court has jurisdiction over the subject matter of this case, and jurisdiction over Stipulating Defendant, and that venue in this district is proper.

B. There is good cause to believe that Stipulating Defendant has engaged in and is likely to engage in acts or practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), as well as the FTC’s Trade Regulation Rule entitled the “Telemarketing Sales Rule” (“TSR”), 16 C.F.R. Part 310, and that the FTC is therefore likely to prevail on the merits of this action.

C. There is good cause to believe that immediate and irreparable damage to the 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 of their assets, Documents, business records, or other evidence, unless Defendants are immediately restrained and enjoined by order of the Court.

D. There is good cause for the Court to order (a) the appointment of a temporary receiver over Corporate Defendants (as defined below); (b) an asset freeze against Stipulating Defendant; (c) that the FTC and the Receiver may take expedited discovery; and (d) the ancillary relief described below.

E. Weighing the equities and considering the FTC's likelihood of ultimate success on the merits, it is in the public interest that this Court enter a Preliminary Injunction against Stipulating Defendant.

F. This Court has authority to issue this Order pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b); Federal Rule of Civil Procedure 65; and the All Writs Act, 28 U.S.C. § 1651.

G. The FTC is an independent agency of the United States of America, and no security is required of any agency of the United States for issuance of a preliminary injunction. Fed. R. Civ. P. 65(c).

H. Notwithstanding the foregoing, nothing in this Stipulated Preliminary Injunction shall be deemed an admission to any allegations of the Complaint, the Findings herein (with the exception of subsection A), or as a waiver of any of Stipulating Defendant's rights or legal privileges.

B. Definitions

A. **“Corporate Defendant(s)”** means Higher Goals Marketing LLC, and Sunshine Freedom Services LLC, and each of their subsidiaries, affiliates, successors, and assigns, and any fictitious business entities or business names created or used by these entities, or either 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 consumer and one or more creditors or debt collectors, including a reduction in the balance, interest rate, or fees owed by a consumer to a creditor or debt collector.

C. **“Defendant(s)”** 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. **“Document”** is synonymous in meaning and equal in scope to the usage of “document” and “electronically stored information” in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, sound and video recordings, images, Internet sites, web pages, websites, electronic correspondence, including e-mail and instant messages, contracts, accounting data, advertisements, FTP Logs, Server Access Logs, books, written or printed records, handwritten notes, telephone logs, telephone scripts, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, computer records, customer or sales databases and any other electronically stored information, including Documents located on remote servers or cloud computing systems, and other data or data compilations from which information can be obtained directly or, if necessary, after translation into a reasonably usable form. A draft or non-identical copy is a separate Document within the meaning of the term.

E. **“Electronic Data Host”** means any person or entity in the business of storing, hosting, or otherwise maintaining electronically stored information. This includes any entity hosting a website or server, and any entity providing “cloud based” electronic storage.

F. **“Individual Defendant(s)”** means Brandun L. Anderson, Lea A. Brownell, Melissa M. Deese, Travis L. Teel, Wayne T. Norris, and Gerald D. Starr, Jr., individually, collectively, or in any combination, and by whatever other names each may be known.

G. **“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.

H. **“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.

I. **“Receiver”** means any temporary or permanent receiver appointed by the Court, and any deputy receiver that shall be named by the permanent receiver.

J. **“Telemarketer”** means any person who, in connection with Telemarketing, initiates or receives telephone calls to or from a customer or donor.

K. **“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.

C. **Prohibited Business Activities**

IT IS THEREFORE ORDERED that Stipulating Defendant, Stipulating Defendant’s officers, agents, employees, and attorneys, and all other persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting

directly or indirectly, in connection with the advertising, marketing, promoting, or offering for sale of any goods or services, are restrained and enjoined from misrepresenting or assisting others in misrepresenting, expressly or by implication, any material fact, including, but not limited to:

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; or
3. 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 up to five percent of a consumer's credit-card debt.

D. Prohibitions Regarding Telemarketing

IT IS FURTHER ORDERED that Stipulating Defendant, Stipulating Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or indirectly, in connection with Telemarketing of any product or service, including any Debt Relief Product or Service, are 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 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;
3. To a person whose telephone number is on the National Do Not Call Registry;
4. That delivers a prerecorded message;
5. 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 Product or Service 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.

E. Prohibition on Release of Customer Information

IT IS FURTHER ORDERED that Stipulating Defendant, Stipulating Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby restrained and enjoined from:

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

B. Benefitting from or using the name, address, birth date, telephone number, email address, credit card number, bank account number, Social Security number, or other financial or identifying information of any person that any Defendant obtained in connection with any activity that pertains to the subject matter of this Order.

Provided, however, that Stipulating Defendant may disclose such identifying information to a law enforcement agency, to Stipulating Defendant's attorneys as required for Stipulating Defendant's defense, as required by any law, regulation, or court order, or in any filings, pleadings or discovery in this action in the manner required by the Federal Rules of Civil Procedure and by any protective order in the case.

F. Asset Freeze

IT IS FURTHER ORDERED that Stipulating Defendant, Stipulating Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby 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 of any assets that are:

1. owned or controlled, directly or indirectly, by Stipulating Defendant;
2. held, in part or in whole, for the benefit of Stipulating Defendant;
3. in the actual or constructive possession of Stipulating Defendant; or
4. owned or controlled by, 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 Stipulating Defendant.

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

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

bankcard or corporate credit card account for which Stipulating Defendant is, or was on the date that this Order was signed, an authorized signer; or

D. Cashing any checks or depositing any money orders or cash received from consumers, clients, or customers of Stipulating Defendant.

Provided that the assets affected by this Section shall include: (1) all assets of Stipulating Defendant as of the time this Order is entered; and (2) assets obtained by Stipulating Defendant after this Order is entered if those assets are derived from any activity that is the subject of the Complaint in this matter or that is prohibited by this Order. This Section does not prohibit any transfers to the Receiver or repatriation of foreign assets specifically required by this Order.

G. Duties of Asset Holders and Other Third Parties

IT IS FURTHER ORDERED that any financial or brokerage institution, Electronic Data Host, credit card processor, payment processor, merchant bank, acquiring bank, independent sales organization, third party processor, payment gateway, insurance company, business entity, or person who receives actual notice of this Order (by service or otherwise) and that (a) holds, controls, or maintains custody, through an account or otherwise, of any Document on behalf of Stipulating Defendant or any asset that is: owned or controlled, directly or indirectly, by Stipulating Defendant; held, in part or in whole, for the benefit of Stipulating Defendant; in the actual or constructive possession of Stipulating Defendant; or owned or controlled by, 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 Stipulating Defendant; (b) holds, controls, or maintains custody of any Document or asset associated with credits, debits or charges made on behalf of Stipulating Defendant, including reserve funds held by payment processors, credit card processors, merchant banks, acquiring

banks, independent sales organizations, third party processors, payment gateways, insurance companies, or other entities; or (c) has held, controlled, or maintained custody of any such Document, asset, or account at any time since the date of entry of this Order shall:

A. Hold, preserve, and retain within its control and prohibit the withdrawal, removal, alteration, assignment, transfer, pledge, encumbrance, disbursement, dissipation, relinquishment, conversion, sale, or other disposal of any such Document or asset, as well as all Documents or other property related to such assets, except by further order of this Court;

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 Stipulating Defendant, either individually or jointly, or otherwise subject to access by Stipulating Defendant;

C. Provide the FTC's counsel and the Receiver, within three (3) 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 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, commercial mail box, or storage facility that is either titled in the name, individually or jointly, of Stipulating Defendant, or is otherwise subject to access by Stipulating Defendant; and

D. Upon the request of the FTC's counsel or the Receiver, promptly provide the FTC's counsel 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 safe deposit boxes, commercial mail boxes, and storage facilities.

Provided, however, that this Section does not prohibit any transfers to the Receiver or repatriation of foreign assets specifically required by this Order.

H. Financial Disclosures

IT IS FURTHER ORDERED that Stipulating Defendant, within ten (10) days of entry of this Order, shall prepare and deliver to the FTC's counsel and the Receiver, completed financial statements on the forms attached to this Order as **Attachment A**—Financial Statement of Individual Defendant—and **Attachment B**—IRS Form 4506, Request for Copy of a Tax Return.

I. Foreign Asset Repatriation

IT IS FURTHER ORDERED that within five (5) days following the entry of this Order, Stipulating Defendant shall:

A. Provide the FTC's counsel and the Receiver with a full accounting, verified under oath and accurate as of the date of this Order, of all assets, Documents, and accounts outside of the United States which are: (1) titled in the name, individually or jointly, of Stipulating Defendant; (2) held by any person or entity for the benefit of Stipulating Defendant or for the benefit of, any corporation, partnership, asset protection trust, or other entity that is directly or

indirectly owned, managed or controlled by Stipulating Defendant; or (3) under the direct or indirect control, whether jointly or singly, of Stipulating Defendant;

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

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

D. The same business day as any repatriation, (1) notify the Receiver and counsel for the FTC of the name and location of the financial institution or other entity that is the recipient of such Documents or assets; and (2) serve this Order on any such financial institution or other entity.

J. Non-Interference with Repatriation

IT IS FURTHER ORDERED that Stipulating Defendant, Stipulating Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby restrained and enjoined from taking any action, directly or indirectly, which may result in the encumbrance or dissipation of foreign assets, or in the hindrance of the repatriation required by this Order, including, but not limited to:

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 Stipulating Defendant’s assets have been fully repatriated pursuant to 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 Stipulating Defendant’s assets have been fully repatriated pursuant to this Order.

K. Consumer Credit Reports

IT IS FURTHER ORDERED that the FTC may obtain credit reports concerning Stipulating 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 the FTC.

L. Preservation of Documents

IT IS FURTHER ORDERED that Stipulating Defendant, Stipulating Defendant’s officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby restrained and enjoined from:

A. Destroying, erasing, falsifying, writing over, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, Documents that relate to: (1) the business, business practices, assets, or business or personal finances of Stipulating Defendant; (2) the business practices or finances of entities directly or indirectly under the control

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

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

M. Report of New Business Activity

IT IS FURTHER ORDERED that Stipulating Defendant, Stipulating Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby restrained and enjoined from creating, operating, or exercising any control over any business entity, whether newly formed or previously inactive, including any partnership, limited partnership, joint venture, sole proprietorship, or corporation, without first providing the FTC's counsel and the Receiver 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, and employees; and (4) a detailed description of the business entity's intended activities.

N. Stipulation to the Appointment of a Temporary Receiver

IT IS FURTHER ORDERED that Mark J. Bernet is appointed as temporary receiver of the Corporate Defendants with full powers of an equity receiver. The Receiver shall be solely the agent of this Court in acting as Receiver under this Order.

O. Duties and Authority of Receiver

IT IS FURTHER ORDERED that the Receiver is immediately empowered, directed, and authorized to accomplish the following:

A. Assume full control of the Corporate Defendants by removing, as the Receiver deems necessary or advisable, any director, officer, independent contractor, employee, attorney, or agent of any Corporate Defendant from control of, management of, or participation in, the affairs of the Corporate Defendant;

B. Take exclusive custody, control, and possession of all assets and Documents of, or in the possession, custody, or under the control of, any Corporate Defendant, wherever situated;

C. Conserve, hold, manage, and prevent the loss of all assets of the 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 the Corporate Defendants. The Receiver shall have full power to sue for, collect, and receive, all assets of the Corporate Defendants and of other persons or entities whose interests are now under the direction, possession, custody, or control of, the 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 the 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 the Corporate Defendants, and perform all acts necessary or advisable to preserve such Documents. The Receiver shall: divert mail; preserve all Documents of the Corporate Defendants that are accessible via electronic means (such as online access to financial accounts and access to electronic documents held onsite or by Electronic Data Hosts, by changing usernames, passwords or other log-in credentials; take possession of all electronic Documents of the Corporate Defendants stored onsite or remotely; take whatever steps necessary to preserve all such Documents; and obtain the

assistance of the FTC's Digital Forensic Unit for the purpose of obtaining electronic documents stored onsite or 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 the Corporate Defendants prior to the date of entry of this Order, except payments that the Receiver deems necessary or advisable to secure assets of the Corporate Defendants, such as rental payments;

G. Take all steps necessary to secure and take exclusive custody of each location from which the 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, servers, internal networks, 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 Corporate Defendants. Law enforcement personnel, including, but not limited to, police or sheriffs, may assist the Receiver in implementing these provisions in order to keep the peace and maintain security. If requested by the Receiver, the United States Marshal will provide appropriate and

necessary assistance to the Receiver to implement this Order and is authorized to use any necessary and reasonable force to do so;

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

I. Enter into and cancel contracts and purchase insurance as advisable or necessary;

J. Prevent the inequitable distribution of assets and determine, adjust, and protect the interests of consumers who have transacted business with the Corporate Defendants;

K. Make an accounting, as soon as practicable, of the assets and financial condition of the receivership and file the accounting with the Court and deliver copies thereof to all parties;

L. Institute, compromise, adjust, appear in, intervene in, defend, 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 the Corporate Defendants, or to carry out the Receiver's mandate under this Order, including but not limited to, actions challenging fraudulent or voidable transfers;

M. Issue subpoenas to obtain Documents and records pertaining to the Receivership, and conduct discovery in this action on behalf of the receivership estate, in addition to obtaining other discovery as set forth in this Order;

N. Open one or more bank accounts at designated depositories for funds of the Corporate Defendants. The Receiver shall deposit all funds of the Corporate Defendants in such designated accounts and shall make all payments and disbursements from the receivership estate from such accounts. The Receiver shall serve copies of monthly account statements on all parties;

O. Maintain accurate records of all receipts and expenditures incurred as Receiver;

P. Allow the FTCs' representatives, agents, and assistants, as well as Defendants' representatives and Defendants themselves, reasonable access to the premises of the Corporate Defendants, or any other premises where the Corporate Defendants conduct business. The purpose of this access shall be to inspect and copy all books, records, Documents, accounts, and other assets owned by, or in the possession of, the Corporate Defendants or their agents. The Receiver shall have the discretion to determine the time, manner, and reasonable conditions of such access, and access by the FTC's representatives, agents, and assistants shall be allowed as soon as practicable;

Q. Allow, as soon as practicable, the FTC's representatives, agents, and assistants, as well as Defendants and their representatives, reasonable access to all Documents in the possession, custody, or control of the Corporate Defendants;

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

S. Suspend business operations of the Corporate Defendants if, in the judgment of the Receiver, such operations cannot be continued legally and profitably;

T. File timely reports with the Court at reasonable intervals, or as otherwise directed by the Court; and

U. If in the Receiver's judgment the business operations cannot be continued legally and profitably, take all steps necessary to ensure that any of the Corporate Defendants' web pages or websites relating to the activities alleged in the Complaint 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 the Corporate Defendants cannot be accessed

by the public, or are answered solely to provide consumer education or information regarding the status of operations.

P. Transfer of Receivership Property to Receiver

IT IS FURTHER ORDERED that Defendants or Defendants' officers, agents, employees, and attorneys, all other persons in active concert or participation with any of them, and any other person with possession, custody or control of assets of, or Documents relating to, the 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 the Corporate Defendants and immediately transfer or deliver to the Receiver possession, custody, and control of, the following:

- A. All assets held by or for the benefit of the Corporate Defendants;
- B. All Documents of or pertaining to the Corporate Defendants;
- C. All computers, electronic devices, mobile devices and machines used to conduct the business of the Corporate Defendants;
- D. All assets and Documents belonging to other persons or entities whose interests are under the direction, possession, custody, or control of the Corporate Defendants; and
- E. All keys, codes, user names and passwords necessary to gain or to secure access to any assets or Documents of or pertaining to the Corporate Defendants, including access to their business premises, means of communication, accounts, computer systems (onsite and remote), Electronic Data Hosts, or other property.

In the event that any person or entity 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.

Q. Provision of Information to Receiver

IT IS FURTHER ORDERED that Stipulating Defendant shall immediately provide to the Receiver:

A. A list of all assets and accounts of the Corporate Defendants that are held in any name other than the name of a Corporate Defendant, or by any person or entity other than a Corporate Defendant;

B. A list of all agents, employees, officers, attorneys, servants and those persons in active concert and participation with the Corporate Defendants, or who have been associated or done business with the Corporate Defendants; and

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

R. Cooperation with Receiver

IT IS FURTHER ORDERED that Stipulating Defendant or Stipulating Defendant's officers, agents, employees, and attorneys, all other persons in active concert or participation with any of them, and any other person with possession, custody, or control of assets of or Documents relating to the Corporate Defendants who receive actual notice of this Order shall fully cooperate with and assist the Receiver. This cooperation and assistance shall include, but is not limited to, providing information to the Receiver that the Receiver deems necessary to exercise the authority and discharge the responsibilities of the Receiver under this Order; providing any keys, codes, user names and passwords required to access any computers, electronic devices, mobile devices, and machines (onsite or remotely) and any cloud account (including specific method to access account) or electronic file in any medium; advising all persons who owe money to any Corporate Defendant

that all debts should be paid directly to the Receiver; and transferring funds at the Receiver's direction and producing Documents related to the assets and sales of the Corporate Defendants.

S. Non-Interference with the Receiver

IT IS FURTHER ORDERED that Stipulating Defendant or Stipulating Defendant's officers, agents, employees, attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, and any other person served with a copy of this Order, are hereby restrained and enjoined from directly or indirectly:

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

B. Transacting any of the business of the 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, the Corporate Defendants; or

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.

T. Stay of Actions

IT IS FURTHER ORDERED that, except by leave of this Court, during the pendency of the receivership ordered by this Court in this action, Stipulating Defendant, Stipulating Defendant's officers, agents, employees, attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, and their corporations, subsidiaries, divisions, or affiliates, and all investors, creditors, stockholders, lessors, customers and other persons seeking to establish or enforce any claim, right, or interest against or on behalf of Stipulating Defendant, and all others acting for or on behalf of such persons, are hereby enjoined

from taking action that would interfere with the exclusive jurisdiction of this Court over the assets or Documents of the Corporate Defendants, including, but not limited to:

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

B. Commencing, prosecuting, or continuing a judicial, administrative, or other action or proceeding against the Corporate Defendants, including the issuance or employment of process against the Corporate Defendants, except that such actions may be commenced if necessary to toll any applicable statute of limitations; or

C. Filing or enforcing any lien on any asset of the Corporate Defendants, taking or attempting to take possession, custody, or control of any asset of the Corporate Defendants; or attempting to foreclose, forfeit, alter, or terminate any interest in any asset of the Corporate Defendants, whether such acts are part of a judicial proceeding, are acts of self-help, or otherwise;

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

U. Compensation of Receiver

IT IS FURTHER ORDERED that the Receiver and all personnel hired by the Receiver as herein authorized, 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, the 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.

V. 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 \$10,000.

W. Distribution of Order by Defendant

IT IS FURTHER ORDERED that Stipulating Defendant shall immediately provide a copy of this Order to each affiliate, telemarketer, marketer, sales entity, successor, assign, member, officer, director, employee, agent, independent contractor, client, attorney, spouse, subsidiary, division, and representative of Stipulating Defendant, and shall, within ten (10) days from the date of entry of this Order, and provide the FTC and the Receiver with a sworn statement that this provision of the Order has been satisfied, which statement shall include the names, physical addresses, phone number, and email addresses of each such person or entity who received a copy of the Order. Furthermore, Stipulating Defendant shall not take any action that would encourage officers, agents, members, directors, employees, salespersons, independent contractors, attorneys, subsidiaries, affiliates, successors, assigns or other persons or entities in active concert or participation with them to disregard this Order or believe that they are not bound by its provisions.

X. Expedited Discovery

IT IS FURTHER ORDERED that, notwithstanding the provisions of the Fed. R. Civ. P. 26(d) and (f) and 30(a)(2)(c), and pursuant to Fed. R. Civ. P. 30(a), 34, and 45, the FTC and the Receiver are granted leave, at any time after service of this Order, to conduct expedited discovery for the purpose of discovering: (1) the nature, location, status, and extent of Defendants' assets; (2) the location and extent of Defendants' business transactions and operations; (3) the location of Documents reflecting Defendants' business transactions and operations; (4) the telecommunications providers that Defendants use to conduct the practices described in the Complaint; (5) the applicability of any evidentiary privilege to this action; and (6) compliance with this Order. The limited expedited discovery set forth in this Section shall proceed as follows:

A. The FTC and the Receiver may take the deposition of Stipulating Defendant and non-parties. Seven (7) days' notice shall be sufficient notice for such depositions. The limitations and conditions set forth in Fed. R. Civ. P. 30(a)(2)(B) and 31(a)(2)(B) regarding subsequent depositions of an individual shall not apply to depositions taken pursuant to this Section. Any such deposition taken pursuant to this Section shall not be counted towards the deposition limit set forth in Fed. R. Civ. P. 30(a)(2)(A) and 31(a)(2)(A), and depositions may be taken by telephone or other remote electronic means.

B. The FTC and the Receiver may serve upon Defendants requests for production of Documents or inspection that require production or inspection within ten (10) days of service.

C. The FTC and the Receiver may serve upon Defendants interrogatories that require response within ten (10) days after they serve such interrogatories.

D. The FTC and the Receiver may serve subpoenas upon non-parties that direct production or inspection within ten (10) days of service.

E. For purposes of this Section, service shall be sufficient if made by hand delivery, facsimile, email, or overnight courier.

F. 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 the Local Rules of this Court. The expedited discovery permitted by this Section does not require a meeting or conference of the parties, pursuant to Fed. R. Civ. P. 26(d) & (f).

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

Y. Service of this Order

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission, electronic mail or other electronic messaging, personal or overnight delivery, U.S. Mail or any other mail service, by agents and employees of the FTC, by any law enforcement agency, or by private process server, upon any person (including any financial institution) that may have possession, custody or control of any asset or Document of Stipulating Defendant, or that may be subject to any provision of this Order pursuant to Rule 65(d)(2) of the Federal Rules of Civil Procedure. For purposes of this Section, service upon any branch, subsidiary, affiliate or office of any entity shall effect service upon the entire entity.

Z. Correspondence and Service on the FTC

IT IS FURTHER ORDERED that, for the purpose of this Order, all correspondence and service of pleadings on the FTC shall be addressed 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)

AA. Retention of Jurisdiction

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

II. STIPULATED PRELIMINARY INJUNCTION AS TO DEFENDANT MELISSA M. DEESE

This matter comes before this Court upon agreement of Plaintiff Federal Trade Commission (“FTC”) and Defendant Melissa M. Deese (“Stipulating Defendant”) for the entry of a Preliminary Injunction against Stipulating Defendant.

On November 29, 2017, the FTC filed its 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), and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108 (Doc. 1), and has moved, pursuant to Federal Rule of Civil Procedure 65(b), for a temporary restraining order, asset freeze, appointment of a temporary receiver, other equitable relief, and an order to show cause why a preliminary injunction should not issue against Brandun L. Anderson, Lea A. Brownell, Melissa M. Deese, Wayne T. Norris, Gerald D. Starr, Jr., Travis L. Teel, Higher Goals Marketing LLC, and Sunshine Freedom Services, LLC. (Doc. 14). The FTC and Stipulating Defendant have consented to entry of this Order, to remain in effect until the final resolution of this matter. The FTC and Stipulating Defendant have also consented that the FTC shall have the same right to documents, information, and access of a receiver if the Court declines to appoint a receiver.

The Court **FINDS** and **ORDERS** as follows:

A. Findings

A. This Court has jurisdiction over the subject matter of this case, and jurisdiction over Stipulating Defendant, and that venue in this district is proper.

B. There is good cause to believe that Stipulating Defendant has engaged in and is likely to engage in acts or practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), as well as the FTC's Trade Regulation Rule entitled the "Telemarketing Sales Rule" ("TSR"), 16 C.F.R. Part 310, and that the FTC is therefore likely to prevail on the merits of this action.

C. There is good cause to believe that immediate and irreparable damage to the 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 of their assets, Documents, business records, or other evidence, unless Defendants are immediately restrained and enjoined by order of the Court.

D. There is good cause for the Court to order (a) the appointment of a temporary receiver over Corporate Defendants (as defined below); (b) an asset freeze against Stipulating Defendant; (c) that the FTC and the Receiver may take expedited discovery; and (d) the ancillary relief described below.

E. Weighing the equities and considering the FTC's likelihood of ultimate success on the merits, it is in the public interest that this Court enter a Preliminary Injunction against Stipulating Defendant.

F. This Court has authority to issue this Order pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b); Federal Rule of Civil Procedure 65; and the All Writs Act, 28 U.S.C. § 1651.

G. The FTC is an independent agency of the United States of America, and no security is required of any agency of the United States for issuance of a preliminary injunction. Fed. R. Civ. P. 65(c).

H. Notwithstanding the foregoing, nothing in this Stipulated Preliminary Injunction shall be deemed an admission to any allegations of the Complaint, the Findings herein (with the exception of subsection A), or as a waiver of any of Stipulating Defendant's rights or legal privileges.

B. Definitions

A. **“Corporate Defendant(s)”** means Higher Goals Marketing LLC, and Sunshine Freedom Services LLC, and each of their subsidiaries, affiliates, successors, and assigns, and any fictitious business entities or business names created or used by these entities, or either 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 consumer and one or more creditors or debt collectors, including a reduction in the balance, interest rate, or fees owed by a consumer to a creditor or debt collector.

C. **“Defendant(s)”** 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. **“Document”** is synonymous in meaning and equal in scope to the usage of “document” and “electronically stored information” in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, sound and video recordings, images, Internet sites, web pages, websites, electronic correspondence, including e-mail and instant

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

E. **“Electronic Data Host”** means any person or entity in the business of storing, hosting, or otherwise maintaining electronically stored information. This includes any entity hosting a website or server, and any entity providing “cloud based” electronic storage.

F. **“Individual Defendant(s)”** means Brandun L. Anderson, Lea A. Brownell, Melissa M. Deese, Travis L. Teel, Wayne T. Norris, and Gerald D. Starr, Jr., individually, collectively, or in any combination, and by whatever other names each may be known.

G. **“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.

H. **“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.

I. **“Receiver”** means any temporary or permanent receiver appointed by the Court, and any deputy receiver that shall be named by the permanent receiver.

J. **“Telemarketer”** means any person who, in connection with Telemarketing, initiates or receives telephone calls to or from a customer or donor.

K. **“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.

C. Prohibited Business Activity

IT IS THEREFORE ORDERED that Stipulating Defendant, Stipulating Defendant’s officers, agents, employees, and attorneys, and all other persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or indirectly, in connection with the advertising, marketing, promoting, or offering for sale of any goods or services, are restrained and enjoined from misrepresenting or assisting others in misrepresenting, expressly or by implication, any material fact, including, but not limited to:

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; or
3. 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 up to five percent of a consumer's credit-card debt.

D. Prohibitions Regarding Telemarketing

IT IS FURTHER ORDERED that Stipulating Defendant, Stipulating Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or indirectly, in connection with Telemarketing of any product or service, including any Debt Relief Product or Service, are 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 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;
 3. To a person whose telephone number is on the National Do Not Call Registry;

4. That delivers a prerecorded message;
5. 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 Product or Service 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.

E. Prohibition on Release of Customer Information

IT IS FURTHER ORDERED that Stipulating Defendant, Stipulating Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby restrained and enjoined from:

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

B. Benefitting from or using the name, address, birth date, telephone number, email address, credit card number, bank account number, Social Security number, or other financial or identifying information of any person that any Defendant obtained in connection with any activity that pertains to the subject matter of this Order.

Provided, however, that Stipulating Defendant may disclose such identifying information to a law enforcement agency, to Stipulating Defendant's attorneys as required for Stipulating Defendant's defense, as required by any law, regulation, or court order, or in any filings, pleadings or discovery in this action in the manner required by the Federal Rules of Civil Procedure and by any protective order in the case.

F. Asset Freeze

IT IS FURTHER ORDERED that Stipulating Defendant, Stipulating Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby 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 of any assets that are:

1. owned or controlled, directly or indirectly, by Stipulating Defendant;
2. held, in part or in whole, for the benefit of Stipulating Defendant;
3. in the actual or constructive possession of Stipulating Defendant; or
4. owned or controlled by, 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 Stipulating Defendant.

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

C. Incurring charges or cash advances on any credit, debit, or ATM card issued in the name, individually or jointly, of any Corporate Defendant or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by Stipulating Defendant or of which Stipulating Defendant is an officer, director, member, or manager. This includes any corporate bankcard or corporate credit card account for which Stipulating Defendant is, or was on the date that this Order was signed, an authorized signer; or

D. Cashing any checks or depositing any money orders or cash received from consumers, clients, or customers of Stipulating Defendant.

Provided that the assets affected by this Section shall include: (1) all assets of Stipulating Defendant as of the time this Order is entered; and (2) assets obtained by Stipulating Defendant after this Order is entered if those assets are derived from any activity that is the subject of the Complaint in this matter or that is prohibited by this Order. This Section does not prohibit any transfers to the Receiver or repatriation of foreign assets specifically required by this Order.

G. Duties of Asset Holders and Other Third Parties

IT IS FURTHER ORDERED that any financial or brokerage institution, Electronic Data Host, credit card processor, payment processor, merchant bank, acquiring bank, independent sales organization, third party processor, payment gateway, insurance company, business entity, or

person who receives actual notice of this Order (by service or otherwise) and that (a) holds, controls, or maintains custody, through an account or otherwise, of any Document on behalf of Stipulating Defendant or any asset that is: owned or controlled, directly or indirectly, by Stipulating Defendant; held, in part or in whole, for the benefit of Stipulating Defendant; in the actual or constructive possession of Stipulating Defendant; or owned or controlled by, 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 Stipulating Defendant; (b) holds, controls, or maintains custody of any Document or asset associated with credits, debits or charges made on behalf of Stipulating Defendant, including reserve funds held by payment processors, credit card processors, merchant banks, acquiring banks, independent sales organizations, third party processors, payment gateways, insurance companies, or other entities; or (c) has held, controlled, or maintained custody of any such Document, asset, or account at any time since the date of entry of this Order shall:

A. Hold, preserve, and retain within its control and prohibit the withdrawal, removal, alteration, assignment, transfer, pledge, encumbrance, disbursement, dissipation, relinquishment, conversion, sale, or other disposal of any such Document or asset, as well as all Documents or other property related to such assets, except by further order of this Court;

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 Stipulating Defendant, either individually or jointly, or otherwise subject to access by Stipulating Defendant;

C. Provide the FTC's counsel and the Receiver, within three (3) 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 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, commercial mail box, or storage facility that is either titled in the name, individually or jointly, of Stipulating Defendant, or is otherwise subject to access by Stipulating Defendant; and

D. Upon the request of the FTC's counsel or the Receiver, promptly provide the FTC's counsel 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 safe deposit boxes, commercial mail boxes, and storage facilities.

Provided, however, that this Section does not prohibit any transfers to the Receiver or repatriation of foreign assets specifically required by this Order.

H. Financial Disclosures

IT IS FURTHER ORDERED that Stipulating Defendant, within ten (10) days of entry of this Order, shall prepare and deliver to the FTC's counsel and the Receiver, completed financial

statements on the forms attached to this Order as **Attachment A**—Financial Statement of Individual Defendant—and **Attachment B**—IRS Form 4506, Request for Copy of a Tax Return.

I. Foreign Asset Repatriation

IT IS FURTHER ORDERED that within five (5) days following the entry of this Order, Stipulating Defendant shall:

A. Provide the FTC’s counsel and the Receiver with a full accounting, verified under oath and accurate as of the date of this Order, of all assets, Documents, and accounts outside of the United States which are: (1) titled in the name, individually or jointly, of Stipulating Defendant; (2) held by any person or entity for the benefit of Stipulating Defendant or for the benefit of, any corporation, partnership, asset protection trust, or other entity that is directly or indirectly owned, managed or controlled by Stipulating Defendant; or (3) under the direct or indirect control, whether jointly or singly, of Stipulating Defendant;

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

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

D. The same business day as any repatriation, (1) notify the Receiver and counsel for the FTC of the name and location of the financial institution or other entity that is the recipient of such Documents or assets; and (2) serve this Order on any such financial institution or other entity.

J. Non-Interference with Repatriation

IT IS FURTHER ORDERED that Stipulating Defendant, Stipulating Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby restrained and enjoined from taking any action, directly or indirectly, which may result in the encumbrance or dissipation of foreign assets, or in the hindrance of the repatriation required by this Order, including, but not limited to:

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 Stipulating Defendant's assets have been fully repatriated pursuant to 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 Stipulating Defendant's assets have been fully repatriated pursuant to this Order.

K. Consumer Credit Reports

IT IS FURTHER ORDERED that the FTC may obtain credit reports concerning Stipulating 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 the FTC.

L. Preservation of Documents

IT IS FURTHER ORDERED that Stipulating Defendant, Stipulating Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby restrained and enjoined from:

A. Destroying, erasing, falsifying, writing over, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, Documents that relate to: (1) the business, business practices, assets, or business or personal finances of Stipulating Defendant; (2) the business practices or finances of entities directly or indirectly under the control of Stipulating Defendant; or (3) the business practices or finances of entities directly or indirectly under common control with any other Defendant; and

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

M. Report of New Business Activity

IT IS FURTHER ORDERED that Stipulating Defendant, Stipulating Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby restrained and enjoined from creating, operating, or exercising any control over any business entity, whether newly formed or previously inactive, including any partnership, limited partnership, joint venture, sole proprietorship, or corporation, without first providing the FTC's counsel and the Receiver 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, and employees; and (4) a detailed description of the business entity's intended activities.

N. Stipulation to the Appointment of a Temporary Receiver

IT IS FURTHER ORDERED that Mark J. Bernet is appointed as temporary receiver of the Corporate Defendants with full powers of an equity receiver. The Receiver shall be solely the agent of this Court in acting as Receiver under this Order.

O. Duties and Authority of Receiver

IT IS FURTHER ORDERED that the Receiver is immediately empowered, directed, and authorized to accomplish the following:

A. Assume full control of the Corporate Defendants by removing, as the Receiver deems necessary or advisable, any director, officer, independent contractor, employee, attorney, or agent of any Corporate Defendant from control of, management of, or participation in, the affairs of the Corporate Defendant;

B. Take exclusive custody, control, and possession of all assets and Documents of, or in the possession, custody, or under the control of, any Corporate Defendant, wherever situated;

C. Conserve, hold, manage, and prevent the loss of all assets of the 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 the Corporate Defendants. The Receiver shall have full power to sue for, collect, and receive, all assets of the Corporate Defendants and of other persons or entities whose interests are now under the direction, possession, custody, or control of, the 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 the 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 the Corporate Defendants, and perform all acts necessary or advisable to preserve such Documents. The Receiver shall: divert mail; preserve all Documents of the Corporate Defendants that are accessible via electronic means (such as online access to financial accounts and access to electronic documents held onsite or by Electronic Data Hosts, by changing usernames, passwords or other log-in credentials; take possession of all electronic Documents of the Corporate Defendants stored onsite or remotely; take whatever steps necessary to preserve all such Documents; and obtain the assistance of the FTC's Digital Forensic Unit for the purpose of obtaining electronic documents stored onsite or 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 the Corporate Defendants prior to the date of entry of this Order, except payments that the Receiver deems necessary or advisable to secure assets of the Corporate Defendants, such as rental payments;

G. Take all steps necessary to secure and take exclusive custody of each location from which the 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, servers, internal networks, 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 Corporate Defendants. Law enforcement personnel, including, but not limited to, police or sheriffs, may assist the Receiver in implementing these provisions in order to keep the peace and maintain security. If requested by the Receiver, the United States Marshal will provide appropriate and necessary assistance to the Receiver to implement this Order and is authorized to use any necessary and reasonable force to do so;

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

I. Enter into and cancel contracts and purchase insurance as advisable or necessary;

J. Prevent the inequitable distribution of assets and determine, adjust, and protect the interests of consumers who have transacted business with the Corporate Defendants;

K. Make an accounting, as soon as practicable, of the assets and financial condition of the receivership and file the accounting with the Court and deliver copies thereof to all parties;

L. Institute, compromise, adjust, appear in, intervene in, defend, 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 the

Corporate Defendants, or to carry out the Receiver's mandate under this Order, including but not limited to, actions challenging fraudulent or voidable transfers;

M. Issue subpoenas to obtain Documents and records pertaining to the Receivership, and conduct discovery in this action on behalf of the receivership estate, in addition to obtaining other discovery as set forth in this Order;

N. Open one or more bank accounts at designated depositories for funds of the Corporate Defendants. The Receiver shall deposit all funds of the Corporate Defendants in such designated accounts and shall make all payments and disbursements from the receivership estate from such accounts. The Receiver shall serve copies of monthly account statements on all parties;

O. Maintain accurate records of all receipts and expenditures incurred as Receiver;

P. Allow the FTCs' representatives, agents, and assistants, as well as Defendants' representatives and Defendants themselves, reasonable access to the premises of the Corporate Defendants, or any other premises where the Corporate Defendants conduct business. The purpose of this access shall be to inspect and copy all books, records, Documents, accounts, and other assets owned by, or in the possession of, the Corporate Defendants or their agents. The Receiver shall have the discretion to determine the time, manner, and reasonable conditions of such access, and access by the FTC's representatives, agents, and assistants shall be allowed as soon as practicable;

Q. Allow, as soon as practicable, the FTC's representatives, agents, and assistants, as well as Defendants and their representatives, reasonable access to all Documents in the possession, custody, or control of the Corporate Defendants;

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

S. Suspend business operations of the Corporate Defendants if, in the judgment of the Receiver, such operations cannot be continued legally and profitably;

T. File timely reports with the Court at reasonable intervals, or as otherwise directed by the Court; and

U. If in the Receiver's judgment the business operations cannot be continued legally and profitably, take all steps necessary to ensure that any of the Corporate Defendants' web pages or websites relating to the activities alleged in the Complaint 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 the Corporate Defendants cannot be accessed by the public, or are answered solely to provide consumer education or information regarding the status of operations.

P. Transfer of Receivership Property to Receiver

IT IS FURTHER ORDERED that Defendants or Defendants' officers, agents, employees, and attorneys, all other persons in active concert or participation with any of them, and any other person with possession, custody or control of assets of, or Documents relating to, the 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 the Corporate Defendants and immediately transfer or deliver to the Receiver possession, custody, and control of, the following:

- A. All assets held by or for the benefit of the Corporate Defendants;
- B. All Documents of or pertaining to the Corporate Defendants;
- C. All computers, electronic devices, mobile devices and machines used to conduct the business of the Corporate Defendants;

D. All assets and Documents belonging to other persons or entities whose interests are under the direction, possession, custody, or control of the Corporate Defendants; and

E. All keys, codes, user names and passwords necessary to gain or to secure access to any assets or Documents of or pertaining to the Corporate Defendants, including access to their business premises, means of communication, accounts, computer systems (onsite and remote), Electronic Data Hosts, or other property.

In the event that any person or entity 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.

Q. Provision of Information to Receiver

IT IS FURTHER ORDERED that Stipulating Defendant shall immediately provide to the Receiver, to the extent known by the Stipulating Defendant:

A. A list of all assets and accounts of the Corporate Defendants that are held in any name other than the name of a Corporate Defendant, or by any person or entity other than a Corporate Defendant;

B. A list of all agents, employees, officers, attorneys, servants and those persons in active concert and participation with the Corporate Defendants, or who have been associated or done business with the Corporate Defendants; and

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

R. Cooperation with the Receiver

IT IS FURTHER ORDERED that Stipulating Defendant or Stipulating Defendant's officers, agents, employees, and attorneys, all other persons in active concert or participation with any of them, and any other person with possession, custody, or control of assets of or Documents relating to the Corporate Defendants who receive actual notice of this Order shall fully cooperate with and assist the Receiver. This cooperation and assistance shall include, but is not limited to, providing information to the Receiver that the Receiver deems necessary to exercise the authority and discharge the responsibilities of the Receiver under this Order; providing any keys, codes, user names and passwords required to access any computers, electronic devices, mobile devices, and machines (onsite or remotely) and any cloud account (including specific method to access account) or electronic file in any medium; advising all persons who owe money to any Corporate Defendant that all debts should be paid directly to the Receiver; and transferring funds at the Receiver's direction and producing Documents related to the assets and sales of the Corporate Defendants.

S. Non-Interference with the Receiver

IT IS FURTHER ORDERED that Stipulating Defendant or Stipulating Defendant's officers, agents, employees, attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, and any other person served with a copy of this Order, are hereby restrained and enjoined from directly or indirectly:

- A. Interfering with the Receiver's efforts to manage, or take custody, control, or possession of, the assets or Documents subject to the receivership;
- B. Transacting any of the business of the 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, the Corporate Defendants; or

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.

T. Stay of Actions

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

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

B. Commencing, prosecuting, or continuing a judicial, administrative, or other action or proceeding against the Corporate Defendants, including the issuance or employment of process against the Corporate Defendants, except that such actions may be commenced if necessary to toll any applicable statute of limitations; or

C. Filing or enforcing any lien on any asset of the Corporate Defendants, taking or attempting to take possession, custody, or control of any asset of the Corporate Defendants; or attempting to foreclose, forfeit, alter, or terminate any interest in any asset of the Corporate Defendants, whether such acts are part of a judicial proceeding, are acts of self-help, or otherwise;

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

U. Compensation of Receiver

IT IS FURTHER ORDERED that the Receiver and all personnel hired by the Receiver as herein authorized, 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, the 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.

V. 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 \$10,000.

W. Distribution of Order by Defendant

IT IS FURTHER ORDERED that Stipulating Defendant shall immediately provide a copy of this Order to each affiliate, telemarketer, marketer, sales entity, successor, assign, member,

officer, director, employee, agent, independent contractor, client, attorney, spouse, subsidiary, division, and representative of Stipulating Defendant, and shall, within ten (10) days from the date of entry of this Order, and provide the FTC and the Receiver with a sworn statement that this provision of the Order has been satisfied, which statement shall include the names, physical addresses, phone number, and email addresses of each such person or entity who received a copy of the Order. Furthermore, Stipulating Defendant shall not take any action that would encourage officers, agents, members, directors, employees, salespersons, independent contractors, attorneys, subsidiaries, affiliates, successors, assigns or other persons or entities in active concert or participation with them to disregard this Order or believe that they are not bound by its provisions.

X. Expedited Discovery

IT IS FURTHER ORDERED that, notwithstanding the provisions of the Fed. R. Civ. P. 26(d) and (f) and 30(a)(2)(c), and pursuant to Fed. R. Civ. P. 30(a), 34, and 45, the FTC and the Receiver are granted leave, at any time after service of this Order, to conduct expedited discovery for the purpose of discovering: (1) the nature, location, status, and extent of Defendants' assets; (2) the location and extent of Defendants' business transactions and operations; (3) the location of Documents reflecting Defendants' business transactions and operations; (4) the telecommunications providers that Defendants use to conduct the practices described in the Complaint; (5) the applicability of any evidentiary privilege to this action; and (6) compliance with this Order. The limited expedited discovery set forth in this Section shall proceed as follows:

A. The FTC and the Receiver may take the deposition of Stipulating Defendant and non-parties. Seven (7) days' notice shall be sufficient notice for such depositions. The limitations and conditions set forth in Fed. R. Civ. P. 30(a)(2)(B) and 31(a)(2)(B) regarding subsequent depositions of an individual shall not apply to depositions taken pursuant to this Section. Any

such deposition taken pursuant to this Section shall not be counted towards the deposition limit set forth in Fed. R. Civ. P. 30(a)(2)(A) and 31(a)(2)(A), and depositions may be taken by telephone or other remote electronic means.

B. The FTC and the Receiver may serve upon Defendants requests for production of Documents or inspection that require production or inspection within ten (10) days of service.

C. The FTC and the Receiver may serve upon Defendants interrogatories that require response within ten (10) days after they serve such interrogatories.

D. The FTC and the Receiver may serve subpoenas upon non-parties that direct production or inspection within ten (10) days of service.

E. For purposes of this Section, service shall be sufficient if made by hand delivery, facsimile, email, or overnight courier.

F. 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 the Local Rules of this Court. The expedited discovery permitted by this Section does not require a meeting or conference of the parties, pursuant to Fed. R. Civ. P. 26(d) & (f).

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

Y. Service of this Order

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission, electronic mail or other electronic messaging, personal or overnight delivery, U.S. Mail or any other mail service, by agents and employees of the FTC, by any law enforcement agency, or by private process server, upon any person (including any financial institution) that may have possession, custody or control of any asset or Document of

Stipulating Defendant, or that may be subject to any provision of this Order pursuant to Rule 65(d)(2) of the Federal Rules of Civil Procedure. For purposes of this Section, service upon any branch, subsidiary, affiliate or office of any entity shall effect service upon the entire entity.

Z. Correspondence and Service on the FTC

IT IS FURTHER ORDERED that, for the purpose of this Order, all correspondence and service of pleadings on the FTC shall be addressed 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)

AA. Retention of Jurisdiction

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

III. STIPULATED PRELIMINARY INJUNCTION AS TO DEFENDANT WAYNE T. NORRIS

This matter comes before this Court upon agreement of Plaintiff Federal Trade Commission (“FTC”) and Defendant Wayne T. Norris (“Stipulating Defendant”) for the entry of a Preliminary Injunction against Stipulating Defendant.

On November 29, 2017, the FTC filed its 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), and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108 (Doc. 1), and has moved, pursuant to Federal Rule of Civil Procedure 65(b), for a temporary restraining order, asset freeze, appointment of a temporary receiver, other equitable relief, and an order to show cause why a preliminary injunction

should not issue against Brandun L. Anderson, Lea A. Brownell, Melissa M. Deese, Wayne T. Norris, Gerald D. Starr, Jr., Travis L. Teel, Higher Goals Marketing LLC, and Sunshine Freedom Services, LLC. (Doc. 14). The FTC and Stipulating Defendant, acting by and through counsel, have consented to entry of this Order, to remain in effect until the final resolution of this matter. The FTC and Stipulating Defendant, acting by and through counsel, have also consented that the FTC shall have the same right to documents, information, and access of a receiver if the Court declines to appoint a receiver.

The Court **FINDS** and **ORDERS** as follows:

A. Findings

A. This Court has jurisdiction over the subject matter of this case, and jurisdiction over Stipulating Defendant, and that venue in this district is proper.

B. There is good cause to believe that Stipulating Defendant has engaged in and is likely to engage in acts or practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), as well as the FTC's Trade Regulation Rule entitled the "Telemarketing Sales Rule" ("TSR"), 16 C.F.R. Part 310, and that the FTC is therefore likely to prevail on the merits of this action.

C. There is good cause to believe that immediate and irreparable damage to the 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 of their assets, Documents, business records, or other evidence, unless Defendants are immediately restrained and enjoined by order of the Court.

D. There is good cause for the Court to order (a) the appointment of a temporary receiver over Corporate Defendants (as defined below); (b) an asset freeze against Stipulating

Defendant; (c) that the FTC and the Receiver may take expedited discovery; and (d) the ancillary relief described below.

E. Weighing the equities and considering the FTC's likelihood of ultimate success on the merits, it is in the public interest that this Court enter a Preliminary Injunction against Stipulating Defendant.

F. This Court has authority to issue this Order pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b); Federal Rule of Civil Procedure 65; and the All Writs Act, 28 U.S.C. § 1651.

G. The FTC is an independent agency of the United States of America, and no security is required of any agency of the United States for issuance of a preliminary injunction. Fed. R. Civ. P. 65(c).

H. Notwithstanding the foregoing, nothing in this Stipulated Preliminary Injunction shall be deemed an admission to any allegations of the Complaint, the Findings herein (with the exception of subsection A), or as a waiver of any of Stipulating Defendant's rights or legal privileges.

B. Definitions

A. **"Corporate Defendant(s)"** means Higher Goals Marketing LLC, and Sunshine Freedom Services LLC, and each of their subsidiaries, affiliates, successors, and assigns, and any fictitious business entities or business names created or used by these entities, or either 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 consumer and one or more creditors or

debt collectors, including a reduction in the balance, interest rate, or fees owed by a consumer to a creditor or debt collector.

C. **“Defendant(s)”** 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. **“Document”** is synonymous in meaning and equal in scope to the usage of “document” and “electronically stored information” in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, sound and video recordings, images, Internet sites, web pages, websites, electronic correspondence, including e-mail and instant messages, contracts, accounting data, advertisements, FTP Logs, Server Access Logs, books, written or printed records, handwritten notes, telephone logs, telephone scripts, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, computer records, customer or sales databases and any other electronically stored information, including Documents located on remote servers or cloud computing systems, and other data or data compilations from which information can be obtained directly or, if necessary, after translation into a reasonably usable form. A draft or non-identical copy is a separate Document within the meaning of the term.

E. **“Electronic Data Host”** means any person or entity in the business of storing, hosting, or otherwise maintaining electronically stored information. This includes any entity hosting a website or server, and any entity providing “cloud based” electronic storage.

F. **“Individual Defendant(s)”** means Brandun L. Anderson, Lea A. Brownell, Melissa M. Deese, Travis L. Teel, Wayne T. Norris, and Gerald D. Starr, Jr., individually, collectively, or in any combination, and by whatever other names each may be known.

G. **“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.

H. **“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.

I. **“Receiver”** means any temporary or permanent receiver appointed by the Court, and any deputy receiver that shall be named by the permanent receiver.

J. **“Telemarketer”** means any person who, in connection with Telemarketing, initiates or receives telephone calls to or from a customer or donor.

K. **“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.

C. **Prohibited Business Activities**

IT IS THEREFORE ORDERED that Stipulating Defendant, Stipulating Defendant’s officers, agents, employees, and attorneys, and all other persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or indirectly, in connection with the advertising, marketing, promoting, or offering for sale of any goods or services, are restrained and enjoined from misrepresenting or assisting others in misrepresenting, expressly or by implication, any material fact, including, but not limited to:

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; or
3. 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 up to five percent of a consumer's credit-card debt.

D. Prohibitions Regarding Telemarketing

IT IS FURTHER ORDERED that Stipulating Defendant, Stipulating Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or indirectly, in connection with Telemarketing of any product or service, including any Debt Relief Product or Service, are 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 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;
3. To a person whose telephone number is on the National Do Not Call Registry;
4. That delivers a prerecorded message;
5. 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 Product or Service 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.

E. Prohibition on Release of Customer Information

IT IS FURTHER ORDERED that Stipulating Defendant, Stipulating Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby restrained and enjoined from:

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

B. Benefitting from or using the name, address, birth date, telephone number, email address, credit card number, bank account number, Social Security number, or other financial or identifying information of any person that any Defendant obtained in connection with any activity that pertains to the subject matter of this Order.

Provided, however, that Stipulating Defendant may disclose such identifying information to a law enforcement agency, to Stipulating Defendant's attorneys as required for Stipulating Defendant's defense, as required by any law, regulation, or court order, or in any filings, pleadings or discovery in this action in the manner required by the Federal Rules of Civil Procedure and by any protective order in the case.

F. Asset Freeze

IT IS FURTHER ORDERED that Stipulating Defendant, Stipulating Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby 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 of any assets that are:

1. owned or controlled, directly or indirectly, by Stipulating Defendant;
2. held, in part or in whole, for the benefit of Stipulating Defendant;
3. in the actual or constructive possession of Stipulating Defendant; or
4. owned or controlled by, 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 Stipulating Defendant.

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

C. Incurring charges or cash advances on any credit, debit, or ATM card issued in the name, individually or jointly, of any Corporate Defendant or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by Stipulating Defendant or of which Stipulating Defendant is an officer, director, member, or manager. This includes any corporate bankcard or corporate credit card account for which Stipulating Defendant is, or was on the date that this Order was signed, an authorized signer; or

D. Cashing any checks or depositing any money orders or cash received from consumers, clients, or customers of Stipulating Defendant.

Provided that the assets affected by this Section shall include: (1) all assets of Stipulating Defendant as of the time this Order is entered; and (2) assets obtained by Stipulating Defendant after this Order is entered if those assets are derived from any activity that is the subject of the Complaint in this matter or that is prohibited by this Order. This Section does not prohibit any transfers to the Receiver or repatriation of foreign assets specifically required by this Order.

G. Duties of Asset Holders and Other Third Parties

IT IS FURTHER ORDERED that any financial or brokerage institution, Electronic Data Host, credit card processor, payment processor, merchant bank, acquiring bank, independent sales organization, third party processor, payment gateway, insurance company, business entity, or person who receives actual notice of this Order (by service or otherwise) and that (a) holds, controls, or maintains custody, through an account or otherwise, of any Document on behalf of Stipulating Defendant or any asset that is: owned or controlled, directly or indirectly, by Stipulating Defendant; held, in part or in whole, for the benefit of Stipulating Defendant; in the actual or constructive possession of Stipulating Defendant; or owned or controlled by, 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 Stipulating Defendant; (b) holds, controls, or maintains custody of any Document or asset associated with credits, debits or charges made on behalf of Stipulating Defendant, including reserve funds held by payment processors, credit card processors, merchant banks, acquiring banks, independent sales organizations, third party processors, payment gateways, insurance companies, or other entities; or (c) has held, controlled, or maintained custody of any such Document, asset, or account at any time since the date of entry of this Order shall:

A. Hold, preserve, and retain within its control and prohibit the withdrawal, removal, alteration, assignment, transfer, pledge, encumbrance, disbursement, dissipation, relinquishment, conversion, sale, or other disposal of any such Document or asset, as well as all Documents or other property related to such assets, except by further order of this Court;

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 Stipulating Defendant, either individually or jointly, or otherwise subject to access by Stipulating Defendant;

C. Provide the FTC's counsel and the Receiver, within three (3) 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 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, commercial mail box, or storage facility that is either titled in the name, individually or jointly, of Stipulating Defendant, or is otherwise subject to access by Stipulating Defendant; and

D. Upon the request of the FTC's counsel or the Receiver, promptly provide the FTC's counsel 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 safe deposit boxes, commercial mail boxes, and storage facilities.

Provided, however, that this Section does not prohibit any transfers to the Receiver or repatriation of foreign assets specifically required by this Order.

H. Financial Disclosures

IT IS FURTHER ORDERED that Stipulating Defendant, within ten (10) days of entry of this Order, shall prepare and deliver to the FTC's counsel and the Receiver, completed financial statements on the forms attached to this Order as **Attachment A**—Financial Statement of Individual Defendant—and **Attachment B**—IRS Form 4506, Request for Copy of a Tax Return.

I. Foreign Asset Repatriation

IT IS FURTHER ORDERED that within five (5) days following the entry of this Order, Stipulating Defendant shall:

A. Provide the FTC's counsel and the Receiver with a full accounting, verified under oath and accurate as of the date of this Order, of all assets, Documents, and accounts outside of the United States which are: (1) titled in the name, individually or jointly, of Stipulating Defendant; (2) held by any person or entity for the benefit of Stipulating Defendant or for the benefit of, any corporation, partnership, asset protection trust, or other entity that is directly or indirectly owned, managed or controlled by Stipulating Defendant; or (3) under the direct or indirect control, whether jointly or singly, of Stipulating Defendant;

B. Take all steps necessary to provide the FTC's counsel and the Receiver access to all Documents and records that may be held by third parties located outside of the territorial United

States of America, including signing the Consent to Release of Financial Records appended to this Order as **Attachment C**.

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

D. The same business day as any repatriation, (1) notify the Receiver and counsel for the FTC of the name and location of the financial institution or other entity that is the recipient of such Documents or assets; and (2) serve this Order on any such financial institution or other entity.

J. Non-Interference with Repatriation

IT IS FURTHER ORDERED that Stipulating Defendant, Stipulating Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby restrained and enjoined from taking any action, directly or indirectly, which may result in the encumbrance or dissipation of foreign assets, or in the hindrance of the repatriation required by this Order, including, but not limited to:

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 Stipulating Defendant's assets have been fully repatriated pursuant to 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 Stipulating Defendant's assets have been fully repatriated pursuant to this Order.

K. Consumer Credit Reports

IT IS FURTHER ORDERED that the FTC may obtain credit reports concerning Stipulating 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 the FTC.

L. Preservation of Documents

IT IS FURTHER ORDERED that Stipulating Defendant, Stipulating Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby restrained and enjoined from:

A. Destroying, erasing, falsifying, writing over, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, Documents that relate to: (1) the business, business practices, assets, or business or personal finances of Stipulating Defendant; (2) the business practices or finances of entities directly or indirectly under the control of Stipulating Defendant; or (3) the business practices or finances of entities directly or indirectly under common control with any other Defendant; and

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

M. Report of New Business Activity

IT IS FURTHER ORDERED that Stipulating Defendant, Stipulating Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby restrained and enjoined from creating, operating, or exercising any control over any business entity, whether newly formed or previously inactive, including any partnership, limited partnership, joint venture, sole proprietorship, or corporation, without first providing the FTC's counsel and the Receiver 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, and employees; and (4) a detailed description of the business entity's intended activities.

N. Stipulation to the Appointment of a Temporary Receiver

IT IS FURTHER ORDERED that Mark J. Bernet is appointed as temporary receiver of the Corporate Defendants with full powers of an equity receiver. The Receiver shall be solely the agent of this Court in acting as Receiver under this Order.

O. Duties and Authority of Receiver

IT IS FURTHER ORDERED that the Receiver is immediately empowered, directed, and authorized to accomplish the following:

A. Assume full control of the Corporate Defendants by removing, as the Receiver deems necessary or advisable, any director, officer, independent contractor, employee, attorney, or agent of any Corporate Defendant from control of, management of, or participation in, the affairs of the Corporate Defendant;

B. Take exclusive custody, control, and possession of all assets and Documents of, or in the possession, custody, or under the control of, any Corporate Defendant, wherever situated;

C. Conserve, hold, manage, and prevent the loss of all assets of the 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 the Corporate Defendants. The Receiver shall have full power to sue for, collect, and receive, all assets of the Corporate Defendants and of other persons or entities whose interests are now under the direction, possession, custody, or control of, the 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 the 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 the Corporate Defendants, and perform all acts necessary or advisable to preserve such Documents. The Receiver shall: divert mail; preserve all Documents of the Corporate Defendants that are accessible via electronic means (such as online access to financial accounts and access to electronic documents held onsite or by Electronic Data Hosts, by changing usernames, passwords or other log-in credentials; take possession of all electronic Documents of the Corporate Defendants stored onsite or remotely; take whatever steps necessary to preserve all such Documents; and obtain the assistance of the FTC's Digital Forensic Unit for the purpose of obtaining electronic documents stored onsite or 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 the Corporate Defendants prior to the date of entry of this Order, except payments that the Receiver deems necessary or advisable to secure assets of the Corporate Defendants, such as rental payments;

G. Take all steps necessary to secure and take exclusive custody of each location from which the 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, servers, internal networks, 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 Corporate Defendants. Law enforcement personnel, including, but not limited to, police or sheriffs, may assist the Receiver in implementing these provisions in order to keep the peace and maintain security. If requested by the Receiver, the United States Marshal will provide appropriate and necessary assistance to the Receiver to implement this Order and is authorized to use any necessary and reasonable force to do so;

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

I. Enter into and cancel contracts and purchase insurance as advisable or necessary;

J. Prevent the inequitable distribution of assets and determine, adjust, and protect the interests of consumers who have transacted business with the Corporate Defendants;

K. Make an accounting, as soon as practicable, of the assets and financial condition of the receivership and file the accounting with the Court and deliver copies thereof to all parties;

L. Institute, compromise, adjust, appear in, intervene in, defend, 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 the Corporate Defendants, or to carry out the Receiver's mandate under this Order, including but not limited to, actions challenging fraudulent or voidable transfers;

M. Issue subpoenas to obtain Documents and records pertaining to the Receivership, and conduct discovery in this action on behalf of the receivership estate, in addition to obtaining other discovery as set forth in this Order;

N. Open one or more bank accounts at designated depositories for funds of the Corporate Defendants. The Receiver shall deposit all funds of the Corporate Defendants in such designated accounts and shall make all payments and disbursements from the receivership estate from such accounts. The Receiver shall serve copies of monthly account statements on all parties;

O. Maintain accurate records of all receipts and expenditures incurred as Receiver;

P. Allow the FTCs' representatives, agents, and assistants, as well as Defendants' representatives and Defendants themselves, reasonable access to the premises of the Corporate Defendants, or any other premises where the Corporate Defendants conduct business. The purpose of this access shall be to inspect and copy all books, records, Documents, accounts, and other assets owned by, or in the possession of, the Corporate Defendants or their agents. The Receiver shall have the discretion to determine the time, manner, and reasonable conditions of such access, and access by the FTC's representatives, agents, and assistants shall be allowed as soon as practicable;

Q. Allow, as soon as practicable, the FTC's representatives, agents, and assistants, as well as Defendants and their representatives, reasonable access to all Documents in the possession, custody, or control of the Corporate Defendants;

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

S. Suspend business operations of the Corporate Defendants if, in the judgment of the Receiver, such operations cannot be continued legally and profitably;

T. File timely reports with the Court at reasonable intervals, or as otherwise directed by the Court; and

U. If in the Receiver's judgment the business operations cannot be continued legally and profitably, take all steps necessary to ensure that any of the Corporate Defendants' web pages or websites relating to the activities alleged in the Complaint 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 the Corporate Defendants cannot be accessed by the public, or are answered solely to provide consumer education or information regarding the status of operations.

P. Transfer of Receivership Property to Receiver

IT IS FURTHER ORDERED that Defendants or Defendants' officers, agents, employees, and attorneys, all other persons in active concert or participation with any of them, and any other person with possession, custody or control of assets of, or Documents relating to, the 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 the Corporate Defendants and immediately transfer or deliver to the Receiver possession, custody, and control of, the following:

- A. All assets held by or for the benefit of the Corporate Defendants;
- B. All Documents of or pertaining to the Corporate Defendants;
- C. All computers, electronic devices, mobile devices and machines used to conduct the business of the Corporate Defendants;
- D. All assets and Documents belonging to other persons or entities whose interests are under the direction, possession, custody, or control of the Corporate Defendants; and
- E. All keys, codes, user names and passwords necessary to gain or to secure access to any assets or Documents of or pertaining to the Corporate Defendants, including access to their business premises, means of communication, accounts, computer systems (onsite and remote), Electronic Data Hosts, or other property.

In the event that any person or entity 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.

Q. Provision of Information to Receiver

IT IS FURTHER ORDERED that Stipulating Defendant shall immediately provide to the Receiver, to the extent known by the Stipulating Defendant:

A. A list of all assets and accounts of the Corporate Defendants that are held in any name other than the name of a Corporate Defendant, or by any person or entity other than a Corporate Defendant;

B. A list of all agents, employees, officers, attorneys, servants and those persons in active concert and participation with the Corporate Defendants, or who have been associated or done business with the Corporate Defendants; and

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

R. Cooperation with the Receiver

IT IS FURTHER ORDERED that Stipulating Defendant or Stipulating Defendant's officers, agents, employees, and attorneys, all other persons in active concert or participation with any of them, and any other person with possession, custody, or control of assets of or Documents relating to the Corporate Defendants who receive actual notice of this Order shall fully cooperate with and assist the Receiver. This cooperation and assistance shall include, but is not limited to, providing information to the Receiver that the Receiver deems necessary to exercise the authority and discharge the responsibilities of the Receiver under this Order; providing any keys, codes, user names and passwords required to access any computers, electronic devices, mobile devices, and machines (onsite or remotely) and any cloud account (including specific method to access account) or electronic file in any medium; advising all persons who owe money to any Corporate Defendant

that all debts should be paid directly to the Receiver; and transferring funds at the Receiver's direction and producing Documents related to the assets and sales of the Corporate Defendants.

S. Non-Interference with the Receiver

IT IS FURTHER ORDERED that Stipulating Defendant or Stipulating Defendant's officers, agents, employees, attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, and any other person served with a copy of this Order, are hereby restrained and enjoined from directly or indirectly:

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

B. Transacting any of the business of the 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, the Corporate Defendants; or

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.

T. Stay of Actions

IT IS FURTHER ORDERED that, except by leave of this Court, during the pendency of the receivership ordered by this Court in this action, Stipulating Defendant, Stipulating Defendant's officers, agents, employees, attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, and their corporations, subsidiaries, divisions, or affiliates, and all investors, creditors, stockholders, lessors, customers and other persons seeking to establish or enforce any claim, right, or interest against or on behalf of Stipulating Defendant, and all others acting for or on behalf of such persons, are hereby enjoined

from taking action that would interfere with the exclusive jurisdiction of this Court over the assets or Documents of the Corporate Defendants, including, but not limited to:

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

B. Commencing, prosecuting, or continuing a judicial, administrative, or other action or proceeding against the Corporate Defendants, including the issuance or employment of process against the Corporate Defendants, except that such actions may be commenced if necessary to toll any applicable statute of limitations; or

C. Filing or enforcing any lien on any asset of the Corporate Defendants, taking or attempting to take possession, custody, or control of any asset of the Corporate Defendants; or attempting to foreclose, forfeit, alter, or terminate any interest in any asset of the Corporate Defendants, whether such acts are part of a judicial proceeding, are acts of self-help, or otherwise;

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

U. Compensation of Receiver

IT IS FURTHER ORDERED that the Receiver and all personnel hired by the Receiver as herein authorized, 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, the 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.

V. 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 \$10,000.

W. Distribution of Order by Defendant

IT IS FURTHER ORDERED that Stipulating Defendant shall immediately provide a copy of this Order to each affiliate, telemarketer, marketer, sales entity, successor, assign, member, officer, director, employee, agent, independent contractor, client, attorney, spouse, subsidiary, division, and representative of Stipulating Defendant, and shall, within ten (10) days from the date of entry of this Order, and provide the FTC and the Receiver with a sworn statement that this provision of the Order has been satisfied, which statement shall include the names, physical addresses, phone number, and email addresses of each such person or entity who received a copy of the Order. Furthermore, Stipulating Defendant shall not take any action that would encourage officers, agents, members, directors, employees, salespersons, independent contractors, attorneys, subsidiaries, affiliates, successors, assigns or other persons or entities in active concert or participation with them to disregard this Order or believe that they are not bound by its provisions.

X. Expedited Discovery

IT IS FURTHER ORDERED that, notwithstanding the provisions of the Fed. R. Civ. P. 26(d) and (f) and 30(a)(2)(c), and pursuant to Fed. R. Civ. P. 30(a), 34, and 45, the FTC and the Receiver are granted leave, at any time after service of this Order, to conduct expedited discovery for the purpose of discovering: (1) the nature, location, status, and extent of Defendants' assets; (2) the location and extent of Defendants' business transactions and operations; (3) the location of Documents reflecting Defendants' business transactions and operations; (4) the telecommunications providers that Defendants use to conduct the practices described in the Complaint; (5) the applicability of any evidentiary privilege to this action; and (6) compliance with this Order. The limited expedited discovery set forth in this Section shall proceed as follows:

A. The FTC and the Receiver may take the deposition of Stipulating Defendant and non-parties. Seven (7) days' notice shall be sufficient notice for such depositions. The limitations and conditions set forth in Fed. R. Civ. P. 30(a)(2)(B) and 31(a)(2)(B) regarding subsequent depositions of an individual shall not apply to depositions taken pursuant to this Section. Any such deposition taken pursuant to this Section shall not be counted towards the deposition limit set forth in Fed. R. Civ. P. 30(a)(2)(A) and 31(a)(2)(A), and depositions may be taken by telephone or other remote electronic means.

B. The FTC and the Receiver may serve upon Defendants requests for production of Documents or inspection that require production or inspection within ten (10) days of service.

C. The FTC and the Receiver may serve upon Defendants interrogatories that require response within ten (10) days after they serve such interrogatories.

D. The FTC and the Receiver may serve subpoenas upon non-parties that direct production or inspection within ten (10) days of service.

E. For purposes of this Section, service shall be sufficient if made by hand delivery, facsimile, email, or overnight courier.

F. 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 the Local Rules of this Court. The expedited discovery permitted by this Section does not require a meeting or conference of the parties, pursuant to Fed. R. Civ. P. 26(d) & (f).

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

Y. Service of this Order

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission, electronic mail or other electronic messaging, personal or overnight delivery, U.S. Mail or any other mail service, by agents and employees of the FTC, by any law enforcement agency, or by private process server, upon any person (including any financial institution) that may have possession, custody or control of any asset or Document of Stipulating Defendant, or that may be subject to any provision of this Order pursuant to Rule 65(d)(2) of the Federal Rules of Civil Procedure. For purposes of this Section, service upon any branch, subsidiary, affiliate or office of any entity shall effect service upon the entire entity.

Z. Correspondence and Service on the FTC

IT IS FURTHER ORDERED that, for the purpose of this Order, all correspondence and service of pleadings on the FTC shall be addressed 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)

AA. Retention of Jurisdiction

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

IV. STIPULATED PRELIMINARY INJUNCTION AS TO DEFENDANT TRAVIS L. TEEL

This matter comes before this Court upon agreement of Plaintiff Federal Trade Commission (“FTC”) and Defendant Travis L. Teel (“Stipulating Defendant”) for the entry of a Preliminary Injunction against Stipulating Defendant.

On November 29, 2017, the FTC filed its 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), and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108 (Doc. 1), and has moved, pursuant to Federal Rule of Civil Procedure 65(b), for a temporary restraining order, asset freeze, appointment of a temporary receiver, other equitable relief, and an order to show cause why a preliminary injunction should not issue against Brandun L. Anderson, Lea A. Brownell, Melissa M. Deese, Wayne T. Norris, Gerald D. Starr, Jr., Travis L. Teel, Higher Goals Marketing LLC, and Sunshine Freedom Services, LLC. (Doc. 14). The FTC and Stipulating Defendant, acting by and through counsel, have consented to entry of this Order, to remain in effect until the final resolution of this matter. The FTC and Stipulating Defendant, acting by and through counsel, have also consented that the FTC shall have the same right to documents, information, and access of a receiver if the Court declines to appoint a receiver.

The Court **FINDS** and **ORDERS** as follows:

A. Findings

A. This Court has jurisdiction over the subject matter of this case, and jurisdiction over Stipulating Defendant, and that venue in this district is proper.

B. There is good cause to believe that Stipulating Defendant has engaged in and is likely to engage in acts or practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), as well as the FTC's Trade Regulation Rule entitled the "Telemarketing Sales Rule" ("TSR"), 16 C.F.R. Part 310, and that the FTC is therefore likely to prevail on the merits of this action.

C. There is good cause to believe that immediate and irreparable damage to the 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 of their assets, Documents, business records, or other evidence, unless Defendants are immediately restrained and enjoined by order of the Court.

D. There is good cause for the Court to order (a) the appointment of a temporary receiver over Corporate Defendants (as defined below); (b) an asset freeze against Stipulating Defendant; (c) that the FTC and the Receiver may take expedited discovery; and (d) the ancillary relief described below.

E. Weighing the equities and considering the FTC's likelihood of ultimate success on the merits, it is in the public interest that this Court enter a Preliminary Injunction against Stipulating Defendant.

F. This Court has authority to issue this Order pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b); Federal Rule of Civil Procedure 65; and the All Writs Act, 28 U.S.C. § 1651.

G. The FTC is an independent agency of the United States of America, and no security is required of any agency of the United States for issuance of a preliminary injunction. Fed. R. Civ. P. 65(c).

H. Notwithstanding the foregoing, nothing in this Stipulated Preliminary Injunction shall be deemed an admission to any allegations of the Complaint, the Findings herein (with the exception of subsection A), or as a waiver of any of Stipulating Defendant's rights or legal privileges.

B. Definitions

A. **“Corporate Defendant(s)”** means Higher Goals Marketing LLC, and Sunshine Freedom Services LLC, and each of their subsidiaries, affiliates, successors, and assigns, and any fictitious business entities or business names created or used by these entities, or either 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 consumer and one or more creditors or debt collectors, including a reduction in the balance, interest rate, or fees owed by a consumer to a creditor or debt collector.

C. **“Defendant(s)”** 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. **“Document”** is synonymous in meaning and equal in scope to the usage of “document” and “electronically stored information” in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, sound and video recordings, images, Internet sites, web pages, websites, electronic correspondence, including e-mail and instant

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

E. **“Electronic Data Host”** means any person or entity in the business of storing, hosting, or otherwise maintaining electronically stored information. This includes any entity hosting a website or server, and any entity providing “cloud based” electronic storage.

F. **“Individual Defendant(s)”** means Brandun L. Anderson, Lea A. Brownell, Melissa M. Deese, Travis L. Teel, Wayne T. Norris, and Gerald D. Starr, Jr., individually, collectively, or in any combination, and by whatever other names each may be known.

G. **“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.

H. **“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.

I. **“Receiver”** means any temporary or permanent receiver appointed by the Court, and any deputy receiver that shall be named by the permanent receiver.

J. **“Telemarketer”** means any person who, in connection with Telemarketing, initiates or receives telephone calls to or from a customer or donor.

K. **“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.

C. Prohibited Business Activities

IT IS THEREFORE ORDERED that Stipulating Defendant, Stipulating Defendant’s officers, agents, employees, and attorneys, and all other persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or indirectly, in connection with the advertising, marketing, promoting, or offering for sale of any goods or services, are restrained and enjoined from misrepresenting or assisting others in misrepresenting, expressly or by implication, any material fact, including, but not limited to:

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; or
3. 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 up to five percent of a consumer's credit-card debt.

D. Prohibitions Regarding Telemarketing

IT IS FURTHER ORDERED that Stipulating Defendant, Stipulating Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or indirectly, in connection with Telemarketing of any product or service, including any Debt Relief Product or Service, are 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 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;
 3. To a person whose telephone number is on the National Do Not Call Registry;

4. That delivers a prerecorded message;
5. 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 Product or Service 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.

E. Prohibition on Release of Customer Information

IT IS FURTHER ORDERED that Stipulating Defendant, Stipulating Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby restrained and enjoined from:

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

B. Benefitting from or using the name, address, birth date, telephone number, email address, credit card number, bank account number, Social Security number, or other financial or identifying information of any person that any Defendant obtained in connection with any activity that pertains to the subject matter of this Order.

Provided, however, that Stipulating Defendant may disclose such identifying information to a law enforcement agency, to Stipulating Defendant's attorneys as required for Stipulating Defendant's defense, as required by any law, regulation, or court order, or in any filings, pleadings or discovery in this action in the manner required by the Federal Rules of Civil Procedure and by any protective order in the case.

F. Asset Freeze

IT IS FURTHER ORDERED that Stipulating Defendant, Stipulating Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby 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 of any assets that are:

1. owned or controlled, directly or indirectly, by Stipulating Defendant;
2. held, in part or in whole, for the benefit of Stipulating Defendant;
3. in the actual or constructive possession of Stipulating Defendant; or
4. owned or controlled by, 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 Stipulating Defendant.

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

C. Incurring charges or cash advances on any credit, debit, or ATM card issued in the name, individually or jointly, of any Corporate Defendant or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by Stipulating Defendant or of which Stipulating Defendant is an officer, director, member, or manager. This includes any corporate bankcard or corporate credit card account for which Stipulating Defendant is, or was on the date that this Order was signed, an authorized signer; or

D. Cashing any checks or depositing any money orders or cash received from consumers, clients, or customers of Stipulating Defendant.

Provided that the assets affected by this Section shall include: (1) all assets of Stipulating Defendant as of the time this Order is entered; and (2) assets obtained by Stipulating Defendant after this Order is entered if those assets are derived from any activity that is the subject of the Complaint in this matter or that is prohibited by this Order. This Section does not prohibit any transfers to the Receiver or repatriation of foreign assets specifically required by this Order.

G. Duties of the Asset Holders and Other Third Parties

IT IS FURTHER ORDERED that any financial or brokerage institution, Electronic Data Host, credit card processor, payment processor, merchant bank, acquiring bank, independent sales organization, third party processor, payment gateway, insurance company, business entity, or

person who receives actual notice of this Order (by service or otherwise) and that (a) holds, controls, or maintains custody, through an account or otherwise, of any Document on behalf of Stipulating Defendant or any asset that is: owned or controlled, directly or indirectly, by Stipulating Defendant; held, in part or in whole, for the benefit of Stipulating Defendant; in the actual or constructive possession of Stipulating Defendant; or owned or controlled by, 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 Stipulating Defendant; (b) holds, controls, or maintains custody of any Document or asset associated with credits, debits or charges made on behalf of Stipulating Defendant, including reserve funds held by payment processors, credit card processors, merchant banks, acquiring banks, independent sales organizations, third party processors, payment gateways, insurance companies, or other entities; or (c) has held, controlled, or maintained custody of any such Document, asset, or account at any time since the date of entry of this Order shall:

A. Hold, preserve, and retain within its control and prohibit the withdrawal, removal, alteration, assignment, transfer, pledge, encumbrance, disbursement, dissipation, relinquishment, conversion, sale, or other disposal of any such Document or asset, as well as all Documents or other property related to such assets, except by further order of this Court;

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 Stipulating Defendant, either individually or jointly, or otherwise subject to access by Stipulating Defendant;

C. Provide the FTC's counsel and the Receiver, within three (3) 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 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, commercial mail box, or storage facility that is either titled in the name, individually or jointly, of Stipulating Defendant, or is otherwise subject to access by Stipulating Defendant; and

D. Upon the request of the FTC's counsel or the Receiver, promptly provide the FTC's counsel 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 safe deposit boxes, commercial mail boxes, and storage facilities.

Provided, however, that this Section does not prohibit any transfers to the Receiver or repatriation of foreign assets specifically required by this Order.

H. Financial Disclosures

IT IS FURTHER ORDERED that Stipulating Defendant, within ten (10) days of entry of this Order, shall prepare and deliver to the FTC's counsel and the Receiver, completed financial statements on the forms attached to this Order as **Attachment A**—Financial Statement of Individual Defendant—and **Attachment B**—IRS Form 4506, Request for Copy of a Tax Return.

I. Foreign Asset Repatriation

IT IS FURTHER ORDERED that within five (5) days following the entry of this Order, Stipulating Defendant shall:

A. Provide the FTC's counsel and the Receiver with a full accounting, verified under oath and accurate as of the date of this Order, of all assets, Documents, and accounts outside of the United States which are: (1) titled in the name, individually or jointly, of Stipulating Defendant; (2) held by any person or entity for the benefit of Stipulating Defendant or for the benefit of, any corporation, partnership, asset protection trust, or other entity that is directly or indirectly owned, managed or controlled by Stipulating Defendant; or (3) under the direct or indirect control, whether jointly or singly, of Stipulating Defendant;

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

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

D. The same business day as any repatriation, (1) notify the Receiver and counsel for the FTC of the name and location of the financial institution or other entity that is the recipient of such Documents or assets; and (2) serve this Order on any such financial institution or other entity.

J. Non-Interference with Repatriation

IT IS FURTHER ORDERED that Stipulating Defendant, Stipulating Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby restrained and enjoined from taking any action, directly or indirectly, which may result in the encumbrance or dissipation of foreign assets, or in the hindrance of the repatriation required by this Order, including, but not limited to:

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 Stipulating Defendant's assets have been fully repatriated pursuant to 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 Stipulating Defendant's assets have been fully repatriated pursuant to this Order.

K. Consumer Credit Reports

IT IS FURTHER ORDERED that the FTC may obtain credit reports concerning Stipulating 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 the FTC.

L. Preservation of Documents

IT IS FURTHER ORDERED that Stipulating Defendant, Stipulating Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation

with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby restrained and enjoined from:

A. Destroying, erasing, falsifying, writing over, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, Documents that relate to: (1) the business, business practices, assets, or business or personal finances of Stipulating Defendant; (2) the business practices or finances of entities directly or indirectly under the control of Stipulating Defendant; or (3) the business practices or finances of entities directly or indirectly under common control with any other Defendant; and

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

M. Report of New Business Activity

IT IS FURTHER ORDERED that Stipulating Defendant, Stipulating Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby restrained and enjoined from creating, operating, or exercising any control over any business entity, whether newly formed or previously inactive, including any partnership, limited partnership, joint venture, sole proprietorship, or corporation, without first providing the FTC's counsel and the Receiver 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, and employees; and (4) a detailed description of the business entity's intended activities.

N. Stipulation to the Appointment of a Temporary Receiver

IT IS FURTHER ORDERED that Mark J. Bernet is appointed as temporary receiver of the Corporate Defendants with full powers of an equity receiver. The Receiver shall be solely the agent of this Court in acting as Receiver under this Order.

O. Duties and Authority of Receiver

IT IS FURTHER ORDERED that the Receiver is immediately empowered, directed, and authorized to accomplish the following:

A. Assume full control of the Corporate Defendants by removing, as the Receiver deems necessary or advisable, any director, officer, independent contractor, employee, attorney, or agent of any Corporate Defendant from control of, management of, or participation in, the affairs of the Corporate Defendant;

B. Take exclusive custody, control, and possession of all assets and Documents of, or in the possession, custody, or under the control of, any Corporate Defendant, wherever situated;

C. Conserve, hold, manage, and prevent the loss of all assets of the 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 the Corporate Defendants. The Receiver shall have full power to sue for, collect, and receive, all assets of the Corporate Defendants and of other persons or entities whose interests are now under the direction, possession, custody, or control of, the 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 the 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 the Corporate Defendants, and perform all acts necessary or advisable to preserve such Documents. The Receiver shall: divert mail; preserve all Documents of the Corporate Defendants that are accessible via electronic means (such as online access to financial accounts and access to electronic documents held onsite or by Electronic Data Hosts, by changing usernames, passwords or other log-in credentials; take possession of all electronic Documents of the Corporate Defendants stored onsite or remotely; take whatever steps necessary to preserve all such Documents; and obtain the assistance of the FTC's Digital Forensic Unit for the purpose of obtaining electronic documents stored onsite or 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 the Corporate Defendants prior to the date of entry of this Order, except payments that the Receiver deems necessary or advisable to secure assets of the Corporate Defendants, such as rental payments;

G. Take all steps necessary to secure and take exclusive custody of each location from which the 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, servers, internal networks, 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 Corporate Defendants. Law enforcement personnel, including, but not limited to, police or sheriffs, may assist the Receiver in implementing these provisions in order to keep the peace and maintain security. If requested by the Receiver, the United States Marshal will provide appropriate and necessary assistance to the Receiver to implement this Order and is authorized to use any necessary and reasonable force to do so;

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

I. Enter into and cancel contracts and purchase insurance as advisable or necessary;

J. Prevent the inequitable distribution of assets and determine, adjust, and protect the interests of consumers who have transacted business with the Corporate Defendants;

K. Make an accounting, as soon as practicable, of the assets and financial condition of the receivership and file the accounting with the Court and deliver copies thereof to all parties;

L. Institute, compromise, adjust, appear in, intervene in, defend, 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 the Corporate Defendants, or to carry out the Receiver's mandate under this Order, including but not limited to, actions challenging fraudulent or voidable transfers;

M. Issue subpoenas to obtain Documents and records pertaining to the Receivership, and conduct discovery in this action on behalf of the receivership estate, in addition to obtaining other discovery as set forth in this Order;

N. Open one or more bank accounts at designated depositories for funds of the Corporate Defendants. The Receiver shall deposit all funds of the Corporate Defendants in such designated accounts and shall make all payments and disbursements from the receivership estate from such accounts. The Receiver shall serve copies of monthly account statements on all parties;

O. Maintain accurate records of all receipts and expenditures incurred as Receiver;

P. Allow the FTCs' representatives, agents, and assistants, as well as Defendants' representatives and Defendants themselves, reasonable access to the premises of the Corporate Defendants, or any other premises where the Corporate Defendants conduct business. The purpose of this access shall be to inspect and copy all books, records, Documents, accounts, and other assets owned by, or in the possession of, the Corporate Defendants or their agents. The Receiver shall have the discretion to determine the time, manner, and reasonable conditions of such access, and access by the FTC's representatives, agents, and assistants shall be allowed as soon as practicable;

Q. Allow, as soon as practicable, the FTC's representatives, agents, and assistants, as well as Defendants and their representatives, reasonable access to all Documents in the possession, custody, or control of the Corporate Defendants;

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

S. Suspend business operations of the Corporate Defendants if, in the judgment of the Receiver, such operations cannot be continued legally and profitably;

T. File timely reports with the Court at reasonable intervals, or as otherwise directed by the Court; and

U. If in the Receiver's judgment the business operations cannot be continued legally and profitably, take all steps necessary to ensure that any of the Corporate Defendants' web pages or websites relating to the activities alleged in the Complaint 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 the Corporate Defendants cannot be accessed by the public, or are answered solely to provide consumer education or information regarding the status of operations.

P. Transfer of Receivership Property to Receiver

IT IS FURTHER ORDERED that Defendants or Defendants' officers, agents, employees, and attorneys, all other persons in active concert or participation with any of them, and any other person with possession, custody or control of assets of, or Documents relating to, the 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 the Corporate Defendants and immediately transfer or deliver to the Receiver possession, custody, and control of, the following:

- A. All assets held by or for the benefit of the Corporate Defendants;
- B. All Documents of or pertaining to the Corporate Defendants;
- C. All computers, electronic devices, mobile devices and machines used to conduct the business of the Corporate Defendants;
- D. All assets and Documents belonging to other persons or entities whose interests are under the direction, possession, custody, or control of the Corporate Defendants; and

E. All keys, codes, user names and passwords necessary to gain or to secure access to any assets or Documents of or pertaining to the Corporate Defendants, including access to their business premises, means of communication, accounts, computer systems (onsite and remote), Electronic Data Hosts, or other property.

In the event that any person or entity 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.

Q. Provision of Information to Receiver

IT IS FURTHER ORDERED that Stipulating Defendant shall immediately provide to the Receiver:

A. A list of all assets and accounts of the Corporate Defendants that are held in any name other than the name of a Corporate Defendant, or by any person or entity other than a Corporate Defendant;

B. A list of all agents, employees, officers, attorneys, servants and those persons in active concert and participation with the Corporate Defendants, or who have been associated or done business with the Corporate Defendants; and

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

R. Cooperation with the Receiver

IT IS FURTHER ORDERED that Stipulating Defendant or Stipulating Defendant's officers, agents, employees, and attorneys, all other persons in active concert or participation with any of them, and any other person with possession, custody, or control of assets of or Documents

relating to the Corporate Defendants who receive actual notice of this Order shall fully cooperate with and assist the Receiver. This cooperation and assistance shall include, but is not limited to, providing information to the Receiver that the Receiver deems necessary to exercise the authority and discharge the responsibilities of the Receiver under this Order; providing any keys, codes, user names and passwords required to access any computers, electronic devices, mobile devices, and machines (onsite or remotely) and any cloud account (including specific method to access account) or electronic file in any medium; advising all persons who owe money to any Corporate Defendant that all debts should be paid directly to the Receiver; and transferring funds at the Receiver's direction and producing Documents related to the assets and sales of the Corporate Defendants.

S. Non-Interference with the Receiver

IT IS FURTHER ORDERED that Stipulating Defendant or Stipulating Defendant's officers, agents, employees, attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, and any other person served with a copy of this Order, are hereby restrained and enjoined from directly or indirectly:

- A. Interfering with the Receiver's efforts to manage, or take custody, control, or possession of, the assets or Documents subject to the receivership;
- B. Transacting any of the business of the 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, the Corporate Defendants; or
- 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.

T. Stay of Actions

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

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

B. Commencing, prosecuting, or continuing a judicial, administrative, or other action or proceeding against the Corporate Defendants, including the issuance or employment of process against the Corporate Defendants, except that such actions may be commenced if necessary to toll any applicable statute of limitations; or

C. Filing or enforcing any lien on any asset of the Corporate Defendants, taking or attempting to take possession, custody, or control of any asset of the Corporate Defendants; or attempting to foreclose, forfeit, alter, or terminate any interest in any asset of the Corporate Defendants, whether such acts are part of a judicial proceeding, are acts of self-help, or otherwise;

Provided, however, that this Order does not stay: (1) the commencement or continuation of a criminal action or proceeding; (2) the commencement or continuation of an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power;

or (3) the enforcement of a judgment, other than a money judgment, obtained in an action or proceeding by a governmental unit to enforce such governmental unit's police or regulatory power.

U. Compensation of Receiver

IT IS FURTHER ORDERED that the Receiver and all personnel hired by the Receiver as herein authorized, 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, the 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.

V. 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 \$10,000.

W. Distribution of Order by Defendant

IT IS FURTHER ORDERED that Stipulating Defendant shall immediately provide a copy of this Order to each affiliate, telemarketer, marketer, sales entity, successor, assign, member, officer, director, employee, agent, independent contractor, client, attorney, spouse, subsidiary, division, and representative of Stipulating Defendant, and shall, within ten (10) days from the date of entry of this Order, and provide the FTC and the Receiver with a sworn statement that this

provision of the Order has been satisfied, which statement shall include the names, physical addresses, phone number, and email addresses of each such person or entity who received a copy of the Order. Furthermore, Stipulating Defendant shall not take any action that would encourage officers, agents, members, directors, employees, salespersons, independent contractors, attorneys, subsidiaries, affiliates, successors, assigns or other persons or entities in active concert or participation with them to disregard this Order or believe that they are not bound by its provisions.

X. Expedited Discovery

IT IS FURTHER ORDERED that, notwithstanding the provisions of the Fed. R. Civ. P. 26(d) and (f) and 30(a)(2)(c), and pursuant to Fed. R. Civ. P. 30(a), 34, and 45, the FTC and the Receiver are granted leave, at any time after service of this Order, to conduct expedited discovery for the purpose of discovering: (1) the nature, location, status, and extent of Defendants' assets; (2) the location and extent of Defendants' business transactions and operations; (3) the location of Documents reflecting Defendants' business transactions and operations; (4) the telecommunications providers that Defendants use to conduct the practices described in the Complaint; (5) the applicability of any evidentiary privilege to this action; and (6) compliance with this Order. The limited expedited discovery set forth in this Section shall proceed as follows:

A. The FTC and the Receiver may take the deposition of Stipulating Defendant and non-parties. Seven (7) days' notice shall be sufficient notice for such depositions. The limitations and conditions set forth in Fed. R. Civ. P. 30(a)(2)(B) and 31(a)(2)(B) regarding subsequent depositions of an individual shall not apply to depositions taken pursuant to this Section. Any such deposition taken pursuant to this Section shall not be counted towards the deposition limit set forth in Fed. R. Civ. P. 30(a)(2)(A) and 31(a)(2)(A), and depositions may be taken by telephone or other remote electronic means.

B. The FTC and the Receiver may serve upon Defendants requests for production of Documents or inspection that require production or inspection within ten (10) days of service.

C. The FTC and the Receiver may serve upon Defendants interrogatories that require response within ten (10) days after they serve such interrogatories.

D. The FTC and the Receiver may serve subpoenas upon non-parties that direct production or inspection within ten (10) days of service.

E. For purposes of this Section, service shall be sufficient if made by hand delivery, facsimile, email, or overnight courier.

F. 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 the Local Rules of this Court. The expedited discovery permitted by this Section does not require a meeting or conference of the parties, pursuant to Fed. R. Civ. P. 26(d) & (f).

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

Y. Service of this Order

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission, electronic mail or other electronic messaging, personal or overnight delivery, U.S. Mail or any other mail service, by agents and employees of the FTC, by any law enforcement agency, or by private process server, upon any person (including any financial institution) that may have possession, custody or control of any asset or Document of Stipulating Defendant, or that may be subject to any provision of this Order pursuant to Rule 65(d)(2) of the Federal Rules of Civil Procedure. For purposes of this Section, service upon any branch, subsidiary, affiliate or office of any entity shall effect service upon the entire entity.

Z. Correspondence and Service on the FTC

IT IS FURTHER ORDERED that, for the purpose of this Order, all correspondence and service of pleadings on the FTC shall be addressed 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)

AA. Retention of Jurisdiction

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

V. STIPULATED PRELIMINARY INJUNCTION AS TO DEFENDANTS HIGHER GOALS

MARKETING LLC AND BRANDUN L. ANDERSON

On November 29, 2017, the FTC filed its 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), and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108 (Doc. 1), and has moved, pursuant to Federal Rule of Civil Procedure 65(b), for a temporary restraining order, asset freeze, appointment of a temporary receiver, other equitable relief, and an order to show cause why a preliminary injunction should not issue against Brandun L. Anderson, Lea A. Brownell, Melissa M. Deese, Wayne T. Norris, Gerald D. Starr, Jr., Travis L. Teel, Higher Goals Marketing LLC, and Sunshine Freedom Services, LLC. (Doc. 14). The FTC and Stipulating Defendants have consented to entry of this Order, to remain in effect until the final resolution of this matter. The FTC and Stipulating

Defendants have also consented that the FTC shall have the same right to documents, information, and access of a receiver if the Court declines to appoint a receiver.

The Court **FINDS** and **ORDERS** as follows:

A. Findings

A. This Court has jurisdiction over the subject matter of this case, and jurisdiction over Stipulating Defendants, and venue in this district is proper.

B. There is good cause to believe that Stipulating 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), as well as the FTC's Trade Regulation Rule entitled the "Telemarketing Sales Rule" ("TSR"), 16 C.F.R. Part 310, and that the FTC is therefore likely to prevail on the merits of this action.

C. There is good cause to believe that immediate and irreparable damage to the 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 of their assets, Documents, business records, or other evidence, unless Defendants are immediately restrained and enjoined by order of the Court.

D. There is good cause for the Court to order (a) the appointment of a temporary receiver over Corporate Defendants (as defined below); (b) an asset freeze against Stipulating Defendants; (c) that the FTC and the Receiver may take expedited discovery; and (d) the ancillary relief described below.

E. Weighing the equities and considering the FTC's likelihood of ultimate success on the merits, it is in the public interest that this Court enter a Preliminary Injunction against Stipulating Defendants.

F. This Court has authority to issue this Order pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b); Federal Rule of Civil Procedure 65; and the All Writs Act, 28 U.S.C. § 1651.

G. The FTC is an independent agency of the United States of America, and no security is required of any agency of the United States for issuance of a preliminary injunction. Fed. R. Civ. P. 65(c).

H. Notwithstanding the foregoing, nothing in this Stipulated Preliminary Injunction shall be deemed an admission to any allegations of the Complaint, the Findings herein (with the exception of subsection A), or as a waiver of any of Stipulating Defendants' rights or legal privileges.

B. Definitions

C. “**Corporate Defendant(s)**” means Higher Goals Marketing LLC, and Sunshine Freedom Services LLC, and each of their subsidiaries, affiliates, successors, and assigns, and any fictitious business entities or business names created or used by these entities, or either of them.

D. “**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 consumer and one or more creditors or debt collectors, including a reduction in the balance, interest rate, or fees owed by a consumer to a creditor or debt collector.

E. “**Defendant(s)**” 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.

F. **“Document”** is synonymous in meaning and equal in scope to the usage of “document” and “electronically stored information” in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, sound and video recordings, images, Internet sites, web pages, websites, electronic correspondence, including e-mail and instant messages, contracts, accounting data, advertisements, FTP Logs, Server Access Logs, books, written or printed records, handwritten notes, telephone logs, telephone scripts, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, computer records, customer or sales databases and any other electronically stored information, including Documents located on remote servers or cloud computing systems, and other data or data compilations from which information can be obtained directly or, if necessary, after translation into a reasonably usable form. A draft or non-identical copy is a separate Document within the meaning of the term.

G. **“Electronic Data Host”** means any person or entity in the business of storing, hosting, or otherwise maintaining electronically stored information. This includes any entity hosting a website or server, and any entity providing “cloud based” electronic storage.

H. **“Individual Defendant(s)”** means Brandun L. Anderson, Lea A. Brownell, Melissa M. Deese, Travis L. Teel, Wayne T. Norris, and Gerald D. Starr, Jr., individually, collectively, or in any combination, and by whatever other names each may be known.

I. **“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.

J. **“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.

K. **“Receiver”** means any temporary or permanent receiver appointed by the Court, and any deputy receiver that shall be named by the permanent receiver.

L. **“Telemarketer”** means any person who, in connection with Telemarketing, initiates or receives telephone calls to or from a customer or donor.

M. **“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.

C. **Prohibited Business Activities**

IT IS THEREFORE ORDERED that Stipulating Defendants, Stipulating Defendants’ officers, agents, employees, and attorneys, and all other persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or indirectly, in connection with the advertising, marketing, promoting, or offering for sale of any goods or services, are restrained and enjoined from misrepresenting or assisting others in misrepresenting, expressly or by implication, any material fact, including, but not limited to:

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; or
3. 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 up to five percent of a consumer's credit-card debt.

D. Prohibitions Regarding Telemarketing

IT IS FURTHER ORDERED that Stipulating Defendants, Stipulating Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or indirectly, in connection with Telemarketing of any product or service, including any Debt Relief Product or Service, are restrained and enjoined from:

B. 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 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;

3. To a person whose telephone number is on the National Do Not Call Registry;
4. That delivers a prerecorded message;
5. 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;

C. Requesting or receiving payment of any fee or consideration from a consumer for any Debt Relief Product or Service 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

D. Violating any provision of the Telemarketing Sales Rule, 16 C.F.R. Part 310.

E. Prohibition on Release of Customer Information

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

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

B. Benefitting from or using the name, address, birth date, telephone number, email address, credit card number, bank account number, Social Security number, or other financial or identifying information of any person that any Defendant obtained in connection with any activity that pertains to the subject matter of this Order.

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

F. Asset Freeze

IT IS FURTHER ORDERED that Stipulating Defendants, Stipulating Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby 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 of any assets that are:

1. owned or controlled, directly or indirectly, by Stipulating Defendants;
2. held, in part or in whole, for the benefit of Stipulating Defendants;

3. in the actual or constructive possession of Stipulating Defendants; or
4. owned or controlled by, 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 Stipulating Defendants.

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

F. Incurring charges or cash advances on any credit, debit, or ATM card issued in the name, individually or jointly, of any Corporate Defendant or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by Stipulating Defendants or of which any Stipulating Defendant is an officer, director, member, or manager. This includes any corporate bankcard or corporate credit card account for which Stipulating Defendants are, or were on the date that this Order was signed, an authorized signer; or

G. Cashing any checks or depositing any money orders or cash received from consumers, clients, or customers of Stipulating Defendants.

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

G. Duties of Asset Holders and Other Third Parties

IT IS FURTHER ORDERED that any financial or brokerage institution, Electronic Data Host, credit card processor, payment processor, merchant bank, acquiring bank, independent sales organization, third party processor, payment gateway, insurance company, business entity, or person who receives actual notice of this Order (by service or otherwise) and that (a) holds, controls, or maintains custody, through an account or otherwise, of any Document on behalf of Stipulating Defendants or any asset that is: owned or controlled, directly or indirectly, by Stipulating Defendants; held, in part or in whole, for the benefit of Stipulating Defendants; in the actual or constructive possession of Stipulating Defendants; or owned or controlled by, 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 Stipulating Defendants; (b) holds, controls, or maintains custody of any Document or asset associated with credits, debits or charges made on behalf of Stipulating Defendants, including reserve funds held by payment processors, credit card processors, merchant banks, acquiring banks, independent sales organizations, third party processors, payment gateways, insurance companies, or other entities; or (c) has held, controlled, or maintained custody of any such Document, asset, or account at any time since the date of entry of this Order shall:

E. Hold, preserve, and retain within its control and prohibit the withdrawal, removal, alteration, assignment, transfer, pledge, encumbrance, disbursement, dissipation, relinquishment, conversion, sale, or other disposal of any such Document or asset, as well as all Documents or other property related to such assets, except by further order of this Court;

F. 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 Stipulating Defendants, either individually or jointly, or otherwise subject to access by Stipulating Defendants;

G. Provide the FTC's counsel and the Receiver, within three (3) 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 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, commercial mail box, or storage facility that is either titled in the name, individually or jointly, of Stipulating Defendants, or is otherwise subject to access by Stipulating Defendants; and

H. Upon the request of the FTC's counsel or the Receiver, promptly provide the FTC's counsel 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 safe deposit boxes, commercial mail boxes, and storage facilities.

Provided, however, that this Section does not prohibit any transfers to the Receiver or repatriation of foreign assets specifically required by this Order.

H. Financial Disclosures

IT IS FURTHER ORDERED that Stipulating Defendants, within ten (10) days of service of this Order upon them, shall prepare and deliver to the FTC's counsel and the Receiver:

B. Completed financial statements on the forms attached to this Order as **Attachment A** (Financial Statement of Individual Defendant) for Stipulating Defendant Anderson, and **Attachment D** (Financial Statement of Corporate Defendant) for Stipulating Defendant Higher Goals Marketing LLC; and

H. Completed **Attachment B** (IRS Form 4506, Request for Copy of a Tax Return) for each Stipulating Defendant.

I. Foreign Asset Repatriation

IT IS FURTHER ORDERED that within five (5) days following the entry of this Order, Stipulating Defendants shall:

A. Provide the FTC's counsel and the Receiver with a full accounting, verified under oath and accurate as of the date of this Order, of all assets, Documents, and accounts outside of the United States which are: (1) titled in the name, individually or jointly, of Stipulating Defendants; (2) held by any person or entity for the benefit of Stipulating Defendants or for the benefit of, any corporation, partnership, asset protection trust, or other entity that is directly or indirectly owned, managed or controlled by Stipulating Defendants; or (3) under the direct or indirect control, whether jointly or singly, of Stipulating Defendants;

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

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

D. The same business day as any repatriation, (1) notify the Receiver and counsel for the FTC of the name and location of the financial institution or other entity that is the recipient of such Documents or assets; and (2) serve this Order on any such financial institution or other entity.

J. Noninterference with Repatriation

IT IS FURTHER ORDERED that Stipulating Defendants, Stipulating Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby restrained and enjoined from taking any action, directly or indirectly, which may result in the encumbrance or dissipation of foreign assets, or in the hindrance of the repatriation required by this Order, including, but not limited to:

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 Stipulating Defendants' assets have been fully repatriated pursuant to 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 Stipulating Defendants' assets have been fully repatriated pursuant to this Order.

K. Consumer Credit Reports

IT IS FURTHER ORDERED that the FTC may obtain credit reports concerning Stipulating Defendants 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 the FTC.

L. Preservation of Documents

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

A. Destroying, erasing, falsifying, writing over, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, Documents that relate to: (1) the business, business practices, assets, or business or personal finances of Stipulating Defendants; (2) the business practices or finances of entities directly or indirectly under the control of Stipulating Defendants; or (3) the business practices or finances of entities directly or indirectly under common control with any other Defendant; and

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

M. Report of New Business Activity

IT IS FURTHER ORDERED that Stipulating Defendants, Stipulating Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby restrained and enjoined from creating, operating, or exercising any control over any business entity, whether newly formed or previously inactive, including any partnership, limited partnership, joint venture, sole proprietorship, or corporation, without first providing the FTC's counsel and the Receiver 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, and employees; and (4) a detailed description of the business entity's intended activities.

N. Stipulation to the Appointment of a Temporary Receiver

IT IS FURTHER ORDERED that Mark J. Bernet is appointed as temporary receiver of the Corporate Defendants with full powers of an equity receiver. The Receiver shall be solely the agent of this Court in acting as Receiver under this Order.

O. Duties and Authority of Receiver

IT IS FURTHER ORDERED that the Receiver is immediately empowered, directed, and authorized to accomplish the following:

A. Assume full control of the Corporate Defendants by removing, as the Receiver deems necessary or advisable, any director, officer, independent contractor, employee, attorney, or agent of any Corporate Defendant from control of, management of, or participation in, the affairs of the Corporate Defendant;

B. Take exclusive custody, control, and possession of all assets and Documents of, or in the possession, custody, or under the control of, any Corporate Defendant, wherever situated;

C. Conserve, hold, manage, and prevent the loss of all assets of the 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 the Corporate Defendants. The Receiver shall have full power to sue for, collect, and receive, all assets of the Corporate Defendants and of other persons or entities whose interests are now under the direction, possession, custody, or control of, the 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 the 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 the Corporate Defendants, and perform all acts necessary or advisable to preserve such Documents. The Receiver shall: divert mail; preserve all Documents of the Corporate Defendants that are accessible via electronic means (such as online access to financial accounts and access to electronic documents held onsite or by Electronic Data Hosts, by changing usernames, passwords or other log-in credentials; take possession of all electronic Documents of the Corporate Defendants stored onsite or remotely; take whatever steps necessary to preserve all such Documents; and obtain the assistance of the FTC's Digital Forensic Unit for the purpose of obtaining electronic documents stored onsite or 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 the Corporate Defendants prior to the date of entry of this Order, except payments that the Receiver deems necessary or advisable to secure assets of the Corporate Defendants, such as rental payments;

G. Take all steps necessary to secure and take exclusive custody of each location from which the 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, servers, internal networks, 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 Corporate Defendants. Law enforcement personnel, including, but not limited to, police or sheriffs, may assist the Receiver in implementing these provisions in order to keep the peace and maintain security. If requested by the Receiver, the United States Marshal will provide appropriate and necessary assistance to the Receiver to implement this Order and is authorized to use any necessary and reasonable force to do so;

H. Take all steps necessary to prevent the modification, destruction, or erasure of any web page or website registered to and operated, in whole or in part, by any Defendants, and to

provide access to all such web page or websites to the FTC's representatives, agents, and assistants, as well as Defendants and their representatives;

I. Enter into and cancel contracts and purchase insurance as advisable or necessary;

J. Prevent the inequitable distribution of assets and determine, adjust, and protect the interests of consumers who have transacted business with the Corporate Defendants;

K. Make an accounting, as soon as practicable, of the assets and financial condition of the receivership and file the accounting with the Court and deliver copies thereof to all parties;

L. Institute, compromise, adjust, appear in, intervene in, defend, 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 the Corporate Defendants, or to carry out the Receiver's mandate under this Order, including but not limited to, actions challenging fraudulent or voidable transfers;

M. Issue subpoenas to obtain Documents and records pertaining to the Receivership, and conduct discovery in this action on behalf of the receivership estate, in addition to obtaining other discovery as set forth in this Order;

N. Open one or more bank accounts at designated depositories for funds of the Corporate Defendants. The Receiver shall deposit all funds of the Corporate Defendants in such designated accounts and shall make all payments and disbursements from the receivership estate from such accounts. The Receiver shall serve copies of monthly account statements on all parties;

O. Maintain accurate records of all receipts and expenditures incurred as Receiver;

P. Allow the FTCs' representatives, agents, and assistants, as well as Defendants' representatives and Defendants themselves, reasonable access to the premises of the Corporate Defendants, or any other premises where the Corporate Defendants conduct business. The purpose

of this access shall be to inspect and copy all books, records, Documents, accounts, and other assets owned by, or in the possession of, the Corporate Defendants or their agents. The Receiver shall have the discretion to determine the time, manner, and reasonable conditions of such access, and access by the FTC's representatives, agents, and assistants shall be allowed as soon as practicable;

Q. Allow, as soon as practicable, the FTC's representatives, agents, and assistants, as well as Defendants and their representatives, reasonable access to all Documents in the possession, custody, or control of the Corporate Defendants;

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

S. Suspend business operations of the Corporate Defendants if, in the judgment of the Receiver, such operations cannot be continued legally and profitably;

T. File timely reports with the Court at reasonable intervals, or as otherwise directed by the Court; and

U. If in the Receiver's judgment the business operations cannot be continued legally and profitably, take all steps necessary to ensure that any of the Corporate Defendants' web pages or websites relating to the activities alleged in the Complaint 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 the Corporate Defendants cannot be accessed by the public, or are answered solely to provide consumer education or information regarding the status of operations.

P. Transfer of Receivership Property to Receiver

IT IS FURTHER ORDERED that Defendants or Defendants' officers, agents, employees, and attorneys, all other persons in active concert or participation with any of them, and

any other person with possession, custody or control of assets of, or Documents relating to, the 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 the Corporate Defendants and immediately transfer or deliver to the Receiver possession, custody, and control of, the following:

- A. All assets held by or for the benefit of the Corporate Defendants;
- B. All Documents of or pertaining to the Corporate Defendants;
- C. All computers, electronic devices, mobile devices and machines used to conduct the business of the Corporate Defendants;
- D. All assets and Documents belonging to other persons or entities whose interests are under the direction, possession, custody, or control of the Corporate Defendants; and
- E. All keys, codes, user names and passwords necessary to gain or to secure access to any assets or Documents of or pertaining to the Corporate Defendants, including access to their business premises, means of communication, accounts, computer systems (onsite and remote), Electronic Data Hosts, or other property.

In the event that any person or entity 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.

Q. Provision of Information to Receiver

IT IS FURTHER ORDERED that Stipulating Defendants shall immediately provide to the Receiver:

A. A list of all assets and accounts of the Corporate Defendants that are held in any name other than the name of a Corporate Defendant, or by any person or entity other than a Corporate Defendant;

B. A list of all agents, employees, officers, attorneys, servants and those persons in active concert and participation with the Corporate Defendants, or who have been associated or done business with the Corporate Defendants; and

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

R. Cooperation with the Receiver

IT IS FURTHER ORDERED that Stipulating Defendants, Stipulating Defendants' officers, agents, employees, and attorneys, all other persons in active concert or participation with any of them, and any other person with possession, custody, or control of assets of or Documents relating to the Corporate Defendants who receive actual notice of this Order shall fully cooperate with and assist the Receiver. This cooperation and assistance shall include, but is not limited to, providing information to the Receiver that the Receiver deems necessary to exercise the authority and discharge the responsibilities of the Receiver under this Order; providing any keys, codes, user names and passwords required to access any computers, electronic devices, mobile devices, and machines (onsite or remotely) and any cloud account (including specific method to access account) or electronic file in any medium; advising all persons who owe money to any Corporate Defendant that all debts should be paid directly to the Receiver; and transferring funds at the Receiver's direction and producing Documents related to the assets and sales of the Corporate Defendants.

S. Non-Interference with the Receiver

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

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

B. Transacting any of the business of the 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, the Corporate Defendants; or

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.

T. Stay of Actions

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

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

B. Commencing, prosecuting, or continuing a judicial, administrative, or other action or proceeding against the Corporate Defendants, including the issuance or employment of process against the Corporate Defendants, except that such actions may be commenced if necessary to toll any applicable statute of limitations; or

C. Filing or enforcing any lien on any asset of the Corporate Defendants, taking or attempting to take possession, custody, or control of any asset of the Corporate Defendants; or attempting to foreclose, forfeit, alter, or terminate any interest in any asset of the Corporate Defendants, whether such acts are part of a judicial proceeding, are acts of self-help, or otherwise;

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

U. Compensation of Receiver

IT IS FURTHER ORDERED that the Receiver and all personnel hired by the Receiver as herein authorized, 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, the 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.

V. 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 \$10,000.

W. Distribution of Order by Defendant

IT IS FURTHER ORDERED that Stipulating Defendants shall immediately provide a copy of this Order to each affiliate, telemarketer, marketer, sales entity, successor, assign, member, officer, director, employee, agent, independent contractor, client, attorney, spouse, subsidiary, division, and representative of Stipulating Defendants, and shall, within ten (10) days from the date of entry of this Order, and provide the FTC and the Receiver with a sworn statement that this provision of the Order has been satisfied, which statement shall include the names, physical addresses, phone number, and email addresses of each such person or entity who received a copy of the Order. Furthermore, Stipulating Defendants shall not take any action that would encourage officers, agents, members, directors, employees, salespersons, independent contractors, attorneys, subsidiaries, affiliates, successors, assigns or other persons or entities in active concert or participation with them to disregard this Order or believe that they are not bound by its provisions.

X. Expedited Discovery

IT IS FURTHER ORDERED that, notwithstanding the provisions of the Fed. R. Civ. P. 26(d) and (f) and 30(a)(2)(c), and pursuant to Fed. R. Civ. P. 30(a), 34, and 45, the FTC and the

Receiver are granted leave, at any time after service of this Order, to conduct expedited discovery for the purpose of discovering: (1) the nature, location, status, and extent of Defendants' assets; (2) the location and extent of Defendants' business transactions and operations; (3) the location of Documents reflecting Defendants' business transactions and operations; (4) the telecommunications providers that Defendants use to conduct the practices described in the Complaint; (5) the applicability of any evidentiary privilege to this action; and (6) compliance with this Order. The limited expedited discovery set forth in this Section shall proceed as follows:

A. The FTC and the Receiver may take the deposition of Stipulating Defendants and non-parties. Seven (7) days' notice shall be sufficient notice for such depositions. The limitations and conditions set forth in Fed. R. Civ. P. 30(a)(2)(B) and 31(a)(2)(B) regarding subsequent depositions of an individual shall not apply to depositions taken pursuant to this Section. Any such deposition taken pursuant to this Section shall not be counted towards the deposition limit set forth in Fed. R. Civ. P. 30(a)(2)(A) and 31(a)(2)(A), and depositions may be taken by telephone or other remote electronic means.

B. The FTC and the Receiver may serve upon Defendants requests for production of Documents or inspection that require production or inspection within ten (10) days of service.

C. The FTC and the Receiver may serve upon Defendants interrogatories that require response within ten (10) days after they serve such interrogatories.

D. The FTC and the Receiver may serve subpoenas upon non-parties that direct production or inspection within ten (10) days of service.

E. For purposes of this Section, service shall be sufficient if made by hand delivery, facsimile, email, or overnight courier.

F. 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 the Local Rules of this Court. The expedited discovery permitted by this Section does not require a meeting or conference of the parties, pursuant to Fed. R. Civ. P. 26(d) & (f).

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

Y. Service of This Order

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission, electronic mail or other electronic messaging, personal or overnight delivery, U.S. Mail or any other mail service, by agents and employees of the FTC, by any law enforcement agency, or by private process server, upon any person (including any financial institution) that may have possession, custody or control of any asset or Document of Stipulating Defendants, or that may be subject to any provision of this Order pursuant to Rule 65(d)(2) of the Federal Rules of Civil Procedure. For purposes of this Section, service upon any branch, subsidiary, affiliate or office of any entity shall effect service upon the entire entity.

Z. Correspondence and Service on the FTC

IT IS FURTHER ORDERED that, for the purpose of this Order, all correspondence and service of pleadings on the FTC shall be addressed 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)

AA. Retention of Jurisdiction

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

VI. STIPULATED PRELIMINARY INJUNCTION AS TO DEFENDANTS SUNSHINE FREEDOM

SERVICES LLC AND GERALD D. STARR, JR.

This matter comes before this Court upon agreement of Plaintiff Federal Trade Commission (“FTC”) and Defendants Sunshine Freedom Services LLC and Gerald D. Starr, Jr. (“Stipulating Defendants”) for the entry of a Preliminary Injunction against Stipulating Defendants.

On November 29, 2017, the FTC filed its 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), and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108 (Doc. 1), and has moved, pursuant to Federal Rule of Civil Procedure 65(b), for a temporary restraining order, asset freeze, appointment of a temporary receiver, other equitable relief, and an order to show cause why a preliminary injunction should not issue against Brandun L. Anderson, Lea A. Brownell, Melissa M. Deese, Wayne T. Norris, Gerald D. Starr, Jr., Travis L. Teel, Higher Goals Marketing LLC, and Sunshine Freedom Services, LLC. (Doc. 14). The FTC and Stipulating Defendants, acting by and through counsel, have consented to entry of this Order, to remain in effect until the final resolution of this matter. The FTC and Stipulating Defendants, acting by and through counsel, have also consented that the FTC shall have the same right to documents, information, and access of a receiver if the Court declines to appoint a receiver.

The Court **FINDS** and **ORDERS** as follows:

A. Findings

A. This Court has jurisdiction over the subject matter of this case, and jurisdiction over Stipulating Defendants, and that venue in this district is proper.

B. There is good cause to believe that Stipulating 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), as well as the FTC's Trade Regulation Rule entitled the "Telemarketing Sales Rule" ("TSR"), 16 C.F.R. Part 310, and that the FTC is therefore likely to prevail on the merits of this action.

C. There is good cause to believe that immediate and irreparable damage to the 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 of their assets, Documents, business records, or other evidence, unless Defendants are immediately restrained and enjoined by order of the Court.

D. There is good cause for the Court to order (a) the appointment of a temporary receiver over Corporate Defendants (as defined below); (b) an asset freeze against Stipulating Defendants; (c) that the FTC and the Receiver may take expedited discovery; and (d) the ancillary relief described below.

E. Weighing the equities and considering the FTC's likelihood of ultimate success on the merits, it is in the public interest that this Court enter a Preliminary Injunction against Stipulating Defendants.

F. This Court has authority to issue this Order pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b); Federal Rule of Civil Procedure 65; and the All Writs Act, 28 U.S.C. § 1651.

G. The FTC is an independent agency of the United States of America, and no security is required of any agency of the United States for issuance of a preliminary injunction. Fed. R. Civ. P. 65(c).

H. Notwithstanding the foregoing, nothing in this Stipulated Preliminary Injunction shall be deemed an admission to any allegations of the Complaint, the Findings herein (with the exception of subsection A), or as a waiver of any of Stipulating Defendants' rights or legal privileges.

B. Definitions

A. **“Corporate Defendant(s)”** means Higher Goals Marketing LLC, and Sunshine Freedom Services LLC, and each of their subsidiaries, affiliates, successors, and assigns, and any fictitious business entities or business names created or used by these entities, or either 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 consumer and one or more creditors or debt collectors, including a reduction in the balance, interest rate, or fees owed by a consumer to a creditor or debt collector.

C. **“Defendant(s)”** 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. **“Document”** is synonymous in meaning and equal in scope to the usage of “document” and “electronically stored information” in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, sound and video recordings, images, Internet sites, web pages, websites, electronic correspondence, including e-mail and instant

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

E. **“Electronic Data Host”** means any person or entity in the business of storing, hosting, or otherwise maintaining electronically stored information. This includes any entity hosting a website or server, and any entity providing “cloud based” electronic storage.

F. **“Individual Defendant(s)”** means Brandun L. Anderson, Lea A. Brownell, Melissa M. Deese, Travis L. Teel, Wayne T. Norris, and Gerald D. Starr, Jr., individually, collectively, or in any combination, and by whatever other names each may be known.

G. **“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.

H. **“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.

I. **“Receiver”** means any temporary or permanent receiver appointed by the Court, and any deputy receiver that shall be named by the permanent receiver.

J. **“Telemarketer”** means any person who, in connection with Telemarketing, initiates or receives telephone calls to or from a customer or donor.

K. **“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.

C. Prohibited Business Activities

IT IS THEREFORE ORDERED that Stipulating Defendants, Stipulating Defendants’ officers, agents, employees, and attorneys, and all other persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or indirectly, in connection with the advertising, marketing, promoting, or offering for sale of any goods or services, are restrained and enjoined from misrepresenting or assisting others in misrepresenting, expressly or by implication, any material fact, including, but not limited to:

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; or
3. 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 up to five percent of a consumer's credit-card debt.

D. Prohibitions Regarding Telemarketing

IT IS FURTHER ORDERED that Stipulating Defendants, Stipulating Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with them, who receive actual notice of this Order by personal service or otherwise, whether acting directly or indirectly, in connection with Telemarketing of any product or service, including any Debt Relief Product or Service, are 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 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;
 3. To a person whose telephone number is on the National Do Not Call Registry;

4. That delivers a prerecorded message;
5. 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 Product or Service 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.

E. Prohibition on Release of Customer Information

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

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

B. Benefitting from or using the name, address, birth date, telephone number, email address, credit card number, bank account number, Social Security number, or other financial or identifying information of any person that any Defendant obtained in connection with any activity that pertains to the subject matter of this Order.

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

F. Asset Freeze

IT IS FURTHER ORDERED that Stipulating Defendants, Stipulating Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby 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 of any assets that are:

1. owned or controlled, directly or indirectly, by Stipulating Defendants;
2. held, in part or in whole, for the benefit of Stipulating Defendants;
3. in the actual or constructive possession of Stipulating Defendants; or
4. owned or controlled by, 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 Stipulating Defendants.

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

C. Incurring charges or cash advances on any credit, debit, or ATM card issued in the name, individually or jointly, of any Corporate Defendant or any corporation, partnership, or other entity directly or indirectly owned, managed, or controlled by Stipulating Defendants or of which any Stipulating Defendant is an officer, director, member, or manager. This includes any corporate bankcard or corporate credit card account for which Stipulating Defendants are, or were on the date that this Order was signed, an authorized signer; or

D. Cashing any checks or depositing any money orders or cash received from consumers, clients, or customers of Stipulating Defendants.

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

G. Duties of Asset Holders and Other Third Parties

IT IS FURTHER ORDERED that any financial or brokerage institution, Electronic Data Host, credit card processor, payment processor, merchant bank, acquiring bank, independent sales organization, third party processor, payment gateway, insurance company, business entity, or

person who receives actual notice of this Order (by service or otherwise) and that (a) holds, controls, or maintains custody, through an account or otherwise, of any Document on behalf of Stipulating Defendants or any asset that is: owned or controlled, directly or indirectly, by Stipulating Defendants; held, in part or in whole, for the benefit of Stipulating Defendants; in the actual or constructive possession of Stipulating Defendants; or owned or controlled by, 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 Stipulating Defendants; (b) holds, controls, or maintains custody of any Document or asset associated with credits, debits or charges made on behalf of Stipulating Defendants, including reserve funds held by payment processors, credit card processors, merchant banks, acquiring banks, independent sales organizations, third party processors, payment gateways, insurance companies, or other entities; or (c) has held, controlled, or maintained custody of any such Document, asset, or account at any time since the date of entry of this Order shall:

A. Hold, preserve, and retain within its control and prohibit the withdrawal, removal, alteration, assignment, transfer, pledge, encumbrance, disbursement, dissipation, relinquishment, conversion, sale, or other disposal of any such Document or asset, as well as all Documents or other property related to such assets, except by further order of this Court;

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 Stipulating Defendants, either individually or jointly, or otherwise subject to access by Stipulating Defendants;

C. Provide the FTC's counsel and the Receiver, within three (3) 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 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, commercial mail box, or storage facility that is either titled in the name, individually or jointly, of Stipulating Defendants, or is otherwise subject to access by Stipulating Defendants; and

D. Upon the request of the FTC's counsel or the Receiver, promptly provide the FTC's counsel 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 safe deposit boxes, commercial mail boxes, and storage facilities.

Provided, however, that this Section does not prohibit any transfers to the Receiver or repatriation of foreign assets specifically required by this Order.

H. Financial Disclosures

IT IS FURTHER ORDERED that Stipulating Defendants, within ten (10) days of service of this Order upon them, shall prepare and deliver to the FTC's counsel and the Receiver:

- A. Completed financial statements on the forms attached to this Order as **Attachment A** (Financial Statement of Individual Defendant) for Stipulating Defendant Starr, and **Attachment**

D (Financial Statement of Corporate Defendant) for Stipulating Defendant Sunshine Freedom Services LLC; and

C. Completed **Attachment B** (IRS Form 4506, Request for Copy of a Tax Return) for each Stipulating Defendant.

I. Foreign Asset Repatriation

IT IS FURTHER ORDERED that within five (5) days following the entry of this Order, Stipulating Defendants shall:

A. Provide the FTC's counsel and the Receiver with a full accounting, verified under oath and accurate as of the date of this Order, of all assets, Documents, and accounts outside of the United States which are: (1) titled in the name, individually or jointly, of Stipulating Defendants; (2) held by any person or entity for the benefit of Stipulating Defendants or for the benefit of, any corporation, partnership, asset protection trust, or other entity that is directly or indirectly owned, managed or controlled by Stipulating Defendants; or (3) under the direct or indirect control, whether jointly or singly, of Stipulating Defendants;

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

C. Transfer to the territory of the United States and all Documents and assets located in foreign countries which are: (1) titled in the name, individually or jointly, of Stipulating Defendants; (2) held by any person or entity for the benefit of Stipulating Defendants or for the benefit of, any corporation, partnership, asset protection trust, or other entity that is directly or

indirectly owned, managed or controlled by Stipulating Defendants; or (3) under the direct or indirect control, whether jointly or singly, of Stipulating Defendants; and

D. The same business day as any repatriation, (1) notify the Receiver and counsel for the FTC of the name and location of the financial institution or other entity that is the recipient of such Documents or assets; and (2) serve this Order on any such financial institution or other entity.

J. Non-Interference with Repatriation

IT IS FURTHER ORDERED that Stipulating Defendants, Stipulating Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby restrained and enjoined from taking any action, directly or indirectly, which may result in the encumbrance or dissipation of foreign assets, or in the hindrance of the repatriation required by this Order, including, but not limited to:

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 Stipulating Defendants' assets have been fully repatriated pursuant to 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 Stipulating Defendants' assets have been fully repatriated pursuant to this Order.

K. Consumer Credit Reports

IT IS FURTHER ORDERED that the FTC may obtain credit reports concerning Stipulating Defendants 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 the FTC.

L. Preservation of Documents

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

A. Destroying, erasing, falsifying, writing over, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, Documents that relate to: (1) the business, business practices, assets, or business or personal finances of Stipulating Defendants; (2) the business practices or finances of entities directly or indirectly under the control of Stipulating Defendants; or (3) the business practices or finances of entities directly or indirectly under common control with any other Defendant; and

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

M. Report of New Business Activity

IT IS FURTHER ORDERED that Stipulating Defendants, Stipulating Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are hereby restrained and enjoined from creating, operating, or exercising any control over any business entity, whether newly formed or previously inactive, including any partnership, limited partnership, joint venture, sole proprietorship, or corporation, without first providing the FTC's

counsel and the Receiver 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, and employees; and (4) a detailed description of the business entity's intended activities.

N. Stipulation to the Appointment of a Temporary Receiver

IT IS FURTHER ORDERED that Mark J. Bernet is appointed as temporary receiver of the Corporate Defendants with full powers of an equity receiver. The Receiver shall be solely the agent of this Court in acting as Receiver under this Order.

O. Duties and Authority of Receiver

IT IS FURTHER ORDERED that the Receiver is immediately empowered, directed, and authorized to accomplish the following:

A. Assume full control of the Corporate Defendants by removing, as the Receiver deems necessary or advisable, any director, officer, independent contractor, employee, attorney, or agent of any Corporate Defendant from control of, management of, or participation in, the affairs of the Corporate Defendant;

B. Take exclusive custody, control, and possession of all assets and Documents of, or in the possession, custody, or under the control of, any Corporate Defendant, wherever situated;

C. Conserve, hold, manage, and prevent the loss of all assets of the 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 the Corporate Defendants. The Receiver shall have full power to sue for, collect, and receive, all assets of the Corporate Defendants and of other persons or entities whose interests are now under the direction, possession, custody, or control of, the 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 the 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 the Corporate Defendants, and perform all acts necessary or advisable to preserve such Documents. The Receiver shall: divert mail; preserve all Documents of the Corporate Defendants that are accessible via electronic means (such as online access to financial accounts and access to electronic documents held onsite or by Electronic Data Hosts, by changing usernames, passwords or other log-in credentials; take possession of all electronic Documents of the Corporate Defendants stored onsite or remotely; take whatever steps necessary to preserve all such Documents; and obtain the assistance of the FTC's Digital Forensic Unit for the purpose of obtaining electronic documents stored onsite or 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 the Corporate Defendants prior to the date of entry of this Order, except payments that the Receiver deems necessary or advisable to secure assets of the Corporate Defendants, such as rental payments;

G. Take all steps necessary to secure and take exclusive custody of each location from which the 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, servers, internal networks, 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 Corporate Defendants. Law enforcement personnel, including, but not limited to, police or sheriffs, may assist the Receiver in implementing these provisions in order to keep the peace and maintain security. If requested by the Receiver, the United States Marshal will provide appropriate and necessary assistance to the Receiver to implement this Order and is authorized to use any necessary and reasonable force to do so;

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

I. Enter into and cancel contracts and purchase insurance as advisable or necessary;

J. Prevent the inequitable distribution of assets and determine, adjust, and protect the interests of consumers who have transacted business with the Corporate Defendants;

K. Make an accounting, as soon as practicable, of the assets and financial condition of the receivership and file the accounting with the Court and deliver copies thereof to all parties;

L. Institute, compromise, adjust, appear in, intervene in, defend, 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 the Corporate Defendants, or to carry out the Receiver's mandate under this Order, including but not limited to, actions challenging fraudulent or voidable transfers;

M. Issue subpoenas to obtain Documents and records pertaining to the Receivership, and conduct discovery in this action on behalf of the receivership estate, in addition to obtaining other discovery as set forth in this Order;

N. Open one or more bank accounts at designated depositories for funds of the Corporate Defendants. The Receiver shall deposit all funds of the Corporate Defendants in such designated accounts and shall make all payments and disbursements from the receivership estate from such accounts. The Receiver shall serve copies of monthly account statements on all parties;

O. Maintain accurate records of all receipts and expenditures incurred as Receiver;

P. Allow the FTCs' representatives, agents, and assistants, as well as Defendants' representatives and Defendants themselves, reasonable access to the premises of the Corporate Defendants, or any other premises where the Corporate Defendants conduct business. The purpose of this access shall be to inspect and copy all books, records, Documents, accounts, and other assets owned by, or in the possession of, the Corporate Defendants or their agents. The Receiver shall have the discretion to determine the time, manner, and reasonable conditions of such access, and access by the FTC's representatives, agents, and assistants shall be allowed as soon as practicable;

Q. Allow, as soon as practicable, the FTC's representatives, agents, and assistants, as well as Defendants and their representatives, reasonable access to all Documents in the possession, custody, or control of the Corporate Defendants;

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

S. Suspend business operations of the Corporate Defendants if, in the judgment of the Receiver, such operations cannot be continued legally and profitably;

T. File timely reports with the Court at reasonable intervals, or as otherwise directed by the Court; and

U. If in the Receiver's judgment the business operations cannot be continued legally and profitably, take all steps necessary to ensure that any of the Corporate Defendants' web pages or websites relating to the activities alleged in the Complaint 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 the Corporate Defendants cannot be accessed by the public, or are answered solely to provide consumer education or information regarding the status of operations.

P. Transfer of Receivership Property to Receiver

IT IS FURTHER ORDERED that Defendants or Defendants' officers, agents, employees, and attorneys, all other persons in active concert or participation with any of them, and any other person with possession, custody or control of assets of, or Documents relating to, the 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 the Corporate Defendants and immediately transfer or deliver to the Receiver possession, custody, and control of, the following:

- A. All assets held by or for the benefit of the Corporate Defendants;
- B. All Documents of or pertaining to the Corporate Defendants;

C. All computers, electronic devices, mobile devices and machines used to conduct the business of the Corporate Defendants;

D. All assets and Documents belonging to other persons or entities whose interests are under the direction, possession, custody, or control of the Corporate Defendants; and

E. All keys, codes, user names and passwords necessary to gain or to secure access to any assets or Documents of or pertaining to the Corporate Defendants, including access to their business premises, means of communication, accounts, computer systems (onsite and remote), Electronic Data Hosts, or other property.

In the event that any person or entity 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.

Q. Provision of Information to Receiver

IT IS FURTHER ORDERED that Stipulating Defendants shall immediately provide to the Receiver:

A. A list of all assets and accounts of the Corporate Defendants that are held in any name other than the name of a Corporate Defendant, or by any person or entity other than a Corporate Defendant;

B. A list of all agents, employees, officers, attorneys, servants and those persons in active concert and participation with the Corporate Defendants, or who have been associated or done business with the Corporate Defendants; and

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

R. Cooperation with the Receiver

IT IS FURTHER ORDERED that Stipulating Defendants, Stipulating Defendants' officers, agents, employees, and attorneys, all other persons in active concert or participation with any of them, and any other person with possession, custody, or control of assets of or Documents relating to the Corporate Defendants who receive actual notice of this Order shall fully cooperate with and assist the Receiver. This cooperation and assistance shall include, but is not limited to, providing information to the Receiver that the Receiver deems necessary to exercise the authority and discharge the responsibilities of the Receiver under this Order; providing any keys, codes, user names and passwords required to access any computers, electronic devices, mobile devices, and machines (onsite or remotely) and any cloud account (including specific method to access account) or electronic file in any medium; advising all persons who owe money to any Corporate Defendant that all debts should be paid directly to the Receiver; and transferring funds at the Receiver's direction and producing Documents related to the assets and sales of the Corporate Defendants.

S. Non-Interference with the Receiver

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

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

B. Transacting any of the business of the 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, the Corporate Defendants; or

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.

T. Stay of Actions

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

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

B. Commencing, prosecuting, or continuing a judicial, administrative, or other action or proceeding against the Corporate Defendants, including the issuance or employment of process against the Corporate Defendants, except that such actions may be commenced if necessary to toll any applicable statute of limitations; or

C. Filing or enforcing any lien on any asset of the Corporate Defendants, taking or attempting to take possession, custody, or control of any asset of the Corporate Defendants; or attempting to foreclose, forfeit, alter, or terminate any interest in any asset of the Corporate Defendants, whether such acts are part of a judicial proceeding, are acts of self-help, or otherwise;

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

U. Compensation of Receiver

IT IS FURTHER ORDERED that the Receiver and all personnel hired by the Receiver as herein authorized, 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, the 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.

V. 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 \$10,000.

W. Distribution of Order by Defendant

IT IS FURTHER ORDERED that Stipulating Defendants shall immediately provide a copy of this Order to each affiliate, telemarketer, marketer, sales entity, successor, assign, member, officer, director, employee, agent, independent contractor, client, attorney, spouse, subsidiary, division, and representative of Stipulating Defendants, and shall, within ten (10) days from the date of entry of this Order, and provide the FTC and the Receiver with a sworn statement that this provision of the Order has been satisfied, which statement shall include the names, physical addresses, phone number, and email addresses of each such person or entity who received a copy of the Order. Furthermore, Stipulating Defendants shall not take any action that would encourage officers, agents, members, directors, employees, salespersons, independent contractors, attorneys, subsidiaries, affiliates, successors, assigns or other persons or entities in active concert or participation with them to disregard this Order or believe that they are not bound by its provisions.

X. Expedited Discovery

IT IS FURTHER ORDERED that, notwithstanding the provisions of the Fed. R. Civ. P. 26(d) and (f) and 30(a)(2)(c), and pursuant to Fed. R. Civ. P. 30(a), 34, and 45, the FTC and the Receiver are granted leave, at any time after service of this Order, to conduct expedited discovery for the purpose of discovering: (1) the nature, location, status, and extent of Defendants' assets; (2) the location and extent of Defendants' business transactions and operations; (3) the location of Documents reflecting Defendants' business transactions and operations; (4) the telecommunications providers that Defendants use to conduct the practices described in the

Complaint; (5) the applicability of any evidentiary privilege to this action; and (6) compliance with this Order. The limited expedited discovery set forth in this Section shall proceed as follows:

A. The FTC and the Receiver may take the deposition of Stipulating Defendants and non-parties. Seven (7) days' notice shall be sufficient notice for such depositions. The limitations and conditions set forth in Fed. R. Civ. P. 30(a)(2)(B) and 31(a)(2)(B) regarding subsequent depositions of an individual shall not apply to depositions taken pursuant to this Section. Any such deposition taken pursuant to this Section shall not be counted towards the deposition limit set forth in Fed. R. Civ. P. 30(a)(2)(A) and 31(a)(2)(A), and depositions may be taken by telephone or other remote electronic means.

B. The FTC and the Receiver may serve upon Defendants requests for production of Documents or inspection that require production or inspection within ten (10) days of service.

C. The FTC and the Receiver may serve upon Defendants interrogatories that require response within ten (10) days after they serve such interrogatories.

D. The FTC and the Receiver may serve subpoenas upon non-parties that direct production or inspection within ten (10) days of service.

E. For purposes of this Section, service shall be sufficient if made by hand delivery, facsimile, email, or overnight courier.

F. 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 the Local Rules of this Court. The expedited discovery permitted by this Section does not require a meeting or conference of the parties, pursuant to Fed. R. Civ. P. 26(d) & (f).

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

Y. Service of This Order

IT IS FURTHER ORDERED that copies of this Order may be served by any means, including facsimile transmission, electronic mail or other electronic messaging, personal or overnight delivery, U.S. Mail or any other mail service, by agents and employees of the FTC, by any law enforcement agency, or by private process server, upon any person (including any financial institution) that may have possession, custody or control of any asset or Document of Stipulating Defendants, or that may be subject to any provision of this Order pursuant to Rule 65(d)(2) of the Federal Rules of Civil Procedure. For purposes of this Section, service upon any branch, subsidiary, affiliate or office of any entity shall effect service upon the entire entity.

Z. Correspondence and Service on the FTC

IT IS FURTHER ORDERED that, for the purpose of this Order, all correspondence and service of pleadings on the FTC shall be addressed 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)

AA. Retention of Jurisdiction

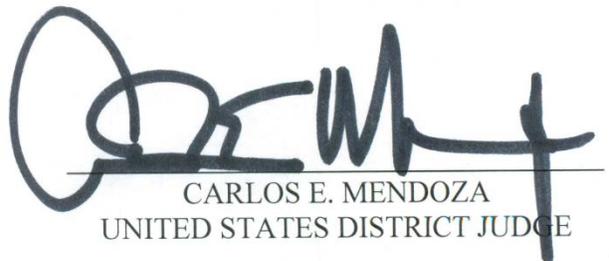
It is **FURTHER ORDERED** that this Court shall retain jurisdiction of this matter for all purposes.

VII. CONCLUSION

In accordance with the foregoing, it is **FURTHER ORDERED** and **ADJUDGED** as follows:

1. Plaintiff's Emergency Motion for Noticed Temporary Restraining Order (Doc. 14) is **DENIED as moot**.
2. In light of the Stipulated Preliminary Injunctions entered by this Court, which appoint Mark J. Bernet as temporary receiver of the Corporate Defendants, Plaintiff's Application for a Temporary Receiver (Doc. 16) is **DENIED as moot**.

DONE and ORDERED in Orlando, Florida on December 28, 2017.



CARLOS E. MENDOZA
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record