

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 18-61017-CIV-ALTONAGA/Seltzer

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

POINTBREAK MEDIA, LLC, et al.,

Defendants.

PRELIMINARY
INJUNCTION AS TO DEFENDANT RICARDO DIAZ

Plaintiff, Federal Trade Commission (“FTC” or “Commission”), filed its Complaint for Permanent Injunction and Other Equitable Relief (“Complaint”) pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), and moved, pursuant to Fed. R. Civ. P. 65(b), for a temporary restraining order, asset freeze, other equitable relief, and an order to show cause why a preliminary injunction should not issue against Dustin Pillonato; Justin Ramsey; Aaron Michael Jones; Ricardo Diaz; Michael Pocker; Steffan Molina; Pointbreak Media, LLC; DCP Marketing, LLC; Modern Spotlight LLC; Modern Spotlight Group LLC; Modern Internet Marketing LLC; Modern Source Media, LLC; and Perfect Image Online LLC (collectively, “Defendants”).

On May 8, 2018, the Court granted the FTC’s motion and entered a Sealed Order [ECF No. 12] (“TRO”). The FTC and Defendant Ricardo Diaz (“Stipulating Defendant”) have stipulated to entry of this Stipulated Preliminary Injunction (“Order”), as more fully set forth in this Order. The Court, having considered the Order, the other material filed in this case, and the

stipulation of the FTC and the Stipulating Defendant, and for other cause appearing, hereby orders that:

FINDINGS OF FACT

A. The FTC and the Stipulating Defendant have stipulated and agreed to the entry of this Order. This Court, therefore, pursuant to Fed. R. Civ. P. 65(d)(1), enters this Order for good cause and for the reasons stated below.

B. Stipulating Defendant neither admits nor denies any of the allegations in the Complaint, except as specifically stated in this Order.

C. The Court has jurisdiction over the subject matter of this case and over the Stipulating Defendant, and venue is proper in this District.

D. The FTC asserts there is good cause to believe that Defendants falsely claimed an affiliation with Google, threatened businesses with removal from Google's search engine, promised small businesses unique keywords for which they would appear prominently in search results, guaranteed first-place or first-page placement in Google search results, and took money from consumers' bank accounts without authorization.

E. The FTC further asserts there is good cause to believe that Defendants have engaged in and are likely to engage in acts or practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and that Plaintiff is therefore likely to prevail on the merits of this action.

F. The FTC further asserts there is good cause to believe that immediate and irreparable harm will result from Defendants' ongoing violations of the FTC Act unless Defendants continue to be restrained and enjoined by order of this Court.

G. The FTC further asserts 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 or records, unless Defendants continue to be restrained and enjoined by order of this Court, except as otherwise provided in this Order.

H. The FTC further asserts there is good cause for continuing the appointed receivership pursuant to the TRO over the Receivership Entities, and continuing to freeze the Stipulating Defendant's Assets, except as modified and provided below.

I. Weighing the equities and considering Plaintiff's likelihood of ultimate success on the merits, a preliminary injunction with an asset freeze, as modified and provided below, the continued appointment of a receiver, and other equitable relief is in the public interest.

J. Stipulating Defendant waives all rights to seek judicial review or otherwise challenge the validity of this Order. Stipulating Defendant does not otherwise waive or release any of his rights or defenses in this action and preserves the right to petition this Court as described in Section III(E)(4) below.

K. The 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.

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

DEFINITIONS

For purposes of this Order, the following definitions shall apply:

A. “**Asset**” means any legal or equitable interest in, right to, or claim to, any property, wherever located and by whomever held.

B. “**Corporate Defendants**” mean Pointbreak Media, LLC; DCP Marketing, LLC; Modern Spotlight LLC; Modern Spotlight Group LLC; Modern Internet Marketing LLC; Modern Source Media, LLC; Perfect Image Online LLC; and each of their subsidiaries, affiliates, successors, and assigns.

C. “**Defendant(s)**” means Corporate Defendants, Dustin Pillonato, Justin Ramsey, Aaron Michael Jones, Ricardo Diaz, Michael Pocker, and Steffan Molina, individually, collectively, or in any combination.

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, File Transfer Protocol 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, but is not limited to, any entity hosting a website or server, and any entity providing “cloud based” electronic storage.

F. **“Individual Defendant(s)”** means Dustin Pillonato, Justin Ramsey, Aaron Michael Jones, Ricardo Diaz, Michael Pocker, and Steffan Molina. Individual Defendant(s) refers to these people individually, collectively, or in any combination.

G. **“Receiver”** means the receiver appointed in Section XI of this Order and any deputy receivers named by the receiver.

H. **“Receivership Entities”** mean Corporate Defendants, as well as any other entity that the Receiver determines is controlled or owned by any Defendant and has (a) conducted any business related to Defendants’ marketing of Google listing and search engine optimization services, (b) commingled or pooled assets with any Defendant, or (c) otherwise participated in the transfer or receipt of Assets derived from any activity that is the subject of the Complaint in this matter.

I. **“Stipulating Defendant”** means Defendant Ricardo Diaz.

J. **“Stipulating Defendant’s Mortgaged Real Properties”** mean the following real properties owned by Stipulated Defendant that are currently encumbered by a mortgage, security interest, or other lien: (1) 4829 Lehigh Drive, Douglasville, GA 30135; (2) 4002 Nations Drive, Douglasville, GA 30135; (3) 12 McCausland, East Providence, RI 02914; (4) 4751 Baron Road, Douglasville, GA 30135; (5) 3463 Birchwood Drive, Winston, GA 30187; (6) 2171 Chestnut Place, Lithia Springs, GA 30122; (7) 6035 Cowan Mill Road, Douglasville, GA 30135; (8) 4827 Kim Court, Douglasville, GA 30135; and (9) 900 Maple Valley Road, Coventry, RI 02827.

K. **“After Acquired Assets”** mean Assets received after the entry of the TRO that are not derived from any activity (i) that is the subject of the Complaint in this matter or (ii) that is prohibited by this Order.

ORDER

I. PROHIBITED BUSINESS ACTIVITIES

IT IS THEREFORE ORDERED that Stipulating Defendant and 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 preliminarily restrained and enjoined from:

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

1. That Stipulating Defendant is authorized by, or affiliated with, Google or another third party;
2. That consumers' businesses are in imminent danger of being marked permanently closed by Google or any other third party, or removed from Google search results or any other internet search results, because consumers have not "claimed and verified" those businesses;
3. That Stipulating Defendant, as part of claiming and verifying the consumers' businesses, can assign certain keywords to those businesses that will result in the prominent display of the businesses' websites or listings;
4. That Stipulating Defendant can guarantee prominent, first-place, or first-page placement in Google search results or any other internet search results; and
5. Any other fact material to consumers concerning any good or service, including but not limited to: the total costs; any material restrictions,

limitations, or conditions; or any material aspect of its performance, efficacy, nature, or central characteristics.

B. Debiting or causing consumers' bank or financial accounts to be debited, or assessing any fee or charge against consumers or their bank or financial accounts, without first obtaining the consumers' express informed consent for the purchase of the good or service and for the debit, charge or fee.

II. PROHIBITION ON RELEASE OF CUSTOMER INFORMATION

IT IS FURTHER ORDERED that Stipulating Defendant and 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 preliminarily restrained and enjoined from: disclosing, using, or benefiting from customer information, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account), that the Stipulating Defendant obtained prior to entry of this Order 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 their attorneys as required for their 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.

III. ASSET FREEZE

IT IS FURTHER ORDERED that, except as otherwise set forth in Section III(E) of this Order, Stipulating Defendant and 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 preliminarily 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 the Stipulating Defendant;
2. held, in part or in whole, for the benefit of the Stipulating Defendant;
3. in the actual or constructive possession of the 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 the Stipulating Defendant;

B. Opening or causing to be opened any safe deposit boxes, commercial mail boxes, or storage facilities titled in the name of the Stipulating Defendant or subject to access by the 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 the Stipulating Defendant or of which the Stipulating Defendant is an officer, director, member, or manager. This includes any corporate bankcard or corporate credit card account for which the Stipulating Defendant is, or was on the date that this Order was signed, an authorized signor; provided, however, that this provision does not prohibit the Stipulating Defendant from incurring charges on a personal credit

card established prior to entry of this Order, up to the pre-existing credit limit, or paying off such charges utilizing After Acquired Assets; or

D. Cashing any checks or depositing any money orders or cash that is received from, or that draws on a bank or financial account belonging to, consumers, clients, or customers of the Stipulating Defendant, except as otherwise *expressly* permitted below.

E. Notwithstanding the asset freeze provisions of Sections III (A)–(D) above, the following shall apply to the Stipulating Defendant:

1. At Stipulating Defendant’s request, Bank of America (“BOA”) shall transfer up to a total of \$12,500 from bank account number XXXXXX0622 in the name of Ricardo Diaz & Michelle Diaz (the “Savings BOA Account”) to the law office of DarrowEverett LLP for attorneys’ fees.
2. For purposes of clarification and the avoidance of doubt, the Stipulating Defendant may retain, spend, or otherwise dispose of any After Acquired Assets received by the Stipulating Defendant, the Stipulating Defendant’s spouse and/or any corporation, partnership, limited liability company, or other entity owned or controlled by the Stipulating Defendant (including any income from employment, consulting, or rental properties, or a loan or gift).
3. The Stipulating Defendant may take a loan or advance against his Merrill Lynch IRA accounts numbered XXXXXS23 or XXXXXK24 (the “IRA Accounts”) in the amount of up to \$6,447.68 *solely* in connection with making and satisfying the mortgage payments (which, for avoidance of doubt, may include payment of principal and interest and escrows for, among other things, insurance and real property taxes as required by the lender) for the Stipulating Defendant’s

Mortgaged Real Properties for the month of June 2018. Upon request by the FTC, Stipulating Defendant shall provide proof of payment of such mortgage payments within three (3) business days.

4. Nothing herein shall preclude, restrict, or limit the Stipulating Defendant from filing future motions or stipulations with the Court for releases of additional funds or any Assets. Provided, however, nothing herein shall preclude, restrict, or limit the FTC from filing objections or other opposition to any such future motion for release of additional funds or Assets.

The Assets affected by this Section shall include: (1) all Assets of the Stipulating Defendant as of the time the TRO was entered; and (2) Assets obtained by the Stipulating Defendant after the TRO was entered *if* those Assets are derived from any activity (i) that is the subject of the Complaint in this matter or (ii) 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.

IV. 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) that: (a) holds, controls, or maintains custody, through an account or otherwise, of any Document on behalf of the Stipulating Defendant or any Asset that is: owned or controlled, directly or indirectly, by the Stipulating Defendant; held, in part or in whole, for the benefit of the Stipulating Defendant; in the actual or constructive possession of the 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 the Stipulating Defendant; (b) holds, controls, or maintains custody, through an account or otherwise, of any Document or Asset associated with credits, debits, or charges made on behalf of the 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; (c) has extended credit to the Stipulating Defendant, including through a credit card account; or (d) 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; provided, however, that this provision does not prohibit the Stipulating Defendant from incurring charges on a personal credit card established prior to entry of this Order, up to the pre-existing credit limit;

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

C. Immediately provide Plaintiff's counsel and the Receiver to the extent not already provided pursuant to the TRO, 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 the Stipulating Defendant, or is otherwise subject to access by the Stipulating Defendant; and

D. Upon the request of Plaintiff's counsel or the Receiver, promptly provide Plaintiff's counsel and the Receiver with copies of all records or other Documents pertaining to each 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.

This Section does not prohibit any transfers to the Receiver or repatriation of foreign Assets specifically required by this order.

V. FINANCIAL DISCLOSURES

IT IS FURTHER ORDERED that to the extent the Stipulating Defendant has not already provided complete and accurate financial statements in accordance with Section V of the TRO, the Stipulating Defendant shall immediately prepare and deliver to Plaintiff's counsel and the Receiver:

- A. completed financial statements for the Stipulating Defendant, and Financial Statement of Corporate Defendant for each Corporate Defendant and for each business entity

under which the Stipulating Defendant conducts business, controls, or which they are an officer, director, member, or manager; and

B. completed IRS Form 4506, Request for Copy of a Tax Return for the Stipulating Defendant.

VI. FOREIGN ASSET REPATRIATION

IT IS FURTHER ORDERED that to the extent not already completed pursuant to the TRO, the Stipulating Defendant shall immediately:

A. Provide Plaintiff'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 the Stipulating Defendant; (2) held by any person or entity for the benefit of the 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 the Stipulating Defendant; or (3) under the direct or indirect control, whether jointly or singly, of the Stipulating Defendant;

B. Take all steps necessary to provide Plaintiff's counsel and 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.

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 the Stipulating Defendant; (2) held by any person or entity for the benefit of the 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 the Stipulating Defendant; or (3) under the direct or indirect control, whether jointly or singly, of the Stipulating Defendant; and

D. The same business day as any repatriation: (1) notify the Receiver and counsel for Plaintiff 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.

VII. NON-INTERFERENCE WITH REPATRIATION

IT IS FURTHER ORDERED that the Stipulating Defendant and 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 preliminarily 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 the 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 the Stipulating Defendant's Assets have been fully repatriated pursuant to this Order.

VIII. CONSUMER CREDIT REPORTS

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

IX. PRESERVATION OF RECORDS

IT IS FURTHER ORDERED that the Stipulating Defendant and the 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 preliminarily 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 any Defendant; (2) the business practices or finances of entities directly or indirectly under the control of any 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 the Stipulating Defendant's incomes, disbursements, transactions, and use of the Stipulating Defendant's Assets.

X. REPORT OF NEW BUSINESS ACTIVITY

IT IS FURTHER ORDERED that the Stipulating Defendant and the 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 preliminarily 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 Plaintiff'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.

XI. RECEIVER

IT IS FURTHER ORDERED that Jonathan E. Perlman, Esq., shall continue to serve as Receiver of the Receivership Entities with full powers of an equity receiver. The Receiver shall be solely the agent of this Court in acting as Receiver under this Order.

XII. TRANSFER OF RECEIVERSHIP PROPERTY TO RECEIVER

IT IS FURTHER ORDERED that, to the extent not already completed pursuant to the TRO, Stipulating Defendant, and any other person with possession, custody or control of property of, or records relating to, the Receivership Entities 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 Receivership Entities 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 Receivership Entities;
- B. All Documents of or pertaining to the Receivership Entities;
- C. All computers, electronic devices, mobile devices and machines used to conduct the business of the Receivership Entities;
- D. All Assets and Documents belonging to other persons or entities whose interests are under the direction, possession, custody, or control of the Receivership Entities; 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 Receivership Entities, 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.

XIII. PROVISION OF INFORMATION TO RECEIVER

IT IS FURTHER ORDERED that, to the extent not already completed pursuant to the TRO, Stipulating Defendant shall immediately provide to the Receiver:

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

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

XIV. COOPERATION WITH THE RECEIVER

IT IS FURTHER ORDERED that Stipulating Defendant and his 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 records relating to the Receivership Entities 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 Receivership Entity that all debts should be paid directly to the Receiver; and transferring funds at the Receiver's direction and producing records related to the Assets and sales of the Receivership Entities.

XV. NON-INTERFERENCE WITH THE RECEIVER

IT IS FURTHER ORDERED that Stipulating Defendant and his 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 preliminarily 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 Receivership Entities;
- 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 Receivership Entities; 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.

XVI. STAY OF ACTIONS

IT IS FURTHER ORDERED that, except by leave of this Court, during the pendency of the receivership ordered herein, Stipulating Defendant, his 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, companies, 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 Receivership Entities, 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 Receivership Entities;

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

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

D. 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.

XVII. DISTRIBUTION OF ORDER BY STIPULATING DEFENDANT

IT IS FURTHER ORDERED that, to the extent not already completed pursuant to the TRO, the 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 the Stipulating Defendant, and shall, thereafter immediately provide Plaintiff and the Receiver with a sworn statement that this provision of the Order has been satisfied, which statement shall include the name(s), physical address(es), phone number(s), and email address(es) for each such person or entity who received a copy of the Order. Furthermore, the 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.

XVIII. 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 FedEx, by agents and employees of Plaintiff, by any law enforcement agency, or by private process server, upon any Defendant or any person (including any financial institution) that may have possession, custody or control of any Asset or Document of any 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.

XIX. CORRESPONDENCE AND SERVICE ON PLAINTIFF

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

Evan Mendelson
Christopher Erickson
Brian Welke
600 Pennsylvania Avenue, NW
Mailstop CC-9528
Washington, DC 20580
Phone: (202) 326-3320
Fax: (202) 326-3197
emendelson@ftc.gov
cerickson@ftc.gov
bwelke@ftc.gov

XX. RETENTION OF JURISDICTION

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

DONE AND ORDERED in Miami, Florida, this 25th day of May, 2018.



CECILIA M. ALTONAGA
UNITED STATES DISTRICT JUDGE

cc: counsel of record