

Fil M. de Banate
Adrienne M. Jenkins
(Each appearing per DUCivR 83-1.1(d))
Attorneys for Plaintiff
FEDERAL TRADE COMMISSION
East Central Region
1111 Superior Avenue East, Suite 200
Cleveland, OH 44114
Telephone: (216) 263-3413 (de Banate)
Telephone: (216) 263-3411 (Jenkins)
Email: fdebanate@ftc.gov
Email: ajenkins@ftc.gov

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH
CENTRAL DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

TRAVIS DELOY PETERSON,
a/k/a Travis Peterson and T. D. Peterson,
individually and also d/b/a
Veterans of America, Telefunding LLC,
Vehicles for Veterans, LLC, Saving Our Soldiers,
Donate Your Car, Donate That Car LLC,
Act of Valor, and Medal of Honor,

Defendant.

Case No. _____

**FILED UNDER SEAL
PURSUANT TO COURT ORDER
(DOCKET NO. _____).**

**PLAINTIFF'S MOTION FOR EX
PARTE TEMPORARY
RESTRAINING ORDER WITH
ASSET FREEZE AND OTHER
EQUITABLE RELIEF AND
ORDER TO SHOW CAUSE WHY
A PRELIMINARY INJUNCTION
SHOULD NOT ISSUE AND
MEMORANDUM IN SUPPORT**

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I. INTRODUCTION AND REQUESTED RELIEF

Plaintiff Federal Trade Commission (“FTC”) asks the Court to halt a pernicious telemarketing scheme that uses millions of unlawful robocalls targeting patriotic and generous Americans and tricking them into donating their vehicles or other valuable property to the Defendant’s fake veterans’ charity.

Since at least 2012, Defendant Travis Deloy Peterson (“Peterson”) has created and used a series of corporate entities and fictitious business names to operate the scheme, many of which sound like veterans’ charities (collectively, the “fake charities”). These entities and business names include, for example, Medal of Honor, Act of Valor, Donate That Car LLC, Donate Your Car, Saving Our Soldiers, and Vehicles for Veterans LLC. Today, Peterson is using the unregistered fictitious business name “Veterans of America” in the robocalls, while using the revoked entity Telefunding LLC for all business associated with the robocalls.

To carry out the scheme, Peterson blasts out millions of robocalls that solicit donations across the country, including to consumers who had never donated to or had any dealings with Veterans of America or any of Peterson’s fake charities. Delivering these robocalls to such consumers is illegal. Not only is the call itself illegal, but the robocall message also falsely claims that the entity identified in the message is a charity and that donations to the entity are tax deductible. In fact, none of Peterson’s fake charities, including Veterans of America, has been recognized as a charitable organization with tax exempt status pursuant to Section 501(c)(3) of the Internal Revenue Code (“IRC”), 26 U.S.C. § 501(c)(3); therefore, donations to these fake charities are not tax deductible pursuant to IRC Section 170, 26 U.S.C. § 170. Accordingly, the claims made in Peterson’s robocalls are deceptive and also illegal.

Between May 2014 and the present, alone, Peterson has received numerous donations of vehicles and watercraft, which he then sold at auction. Instead of using the proceeds to benefit veterans, he used a substantial portion of the proceeds to continue funding the scheme and for his personal benefit.

REQUESTED RELIEF: The Defendant's conduct violates Section 5(a) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 45(a), and the Telemarketing Sales Rule ("TSR"), 16 C.F.R. Part 310, which the FTC adopted pursuant to the Telemarketing and Consumer Fraud and Abuse Prevention Act ("Telemarketing Act"), 15 U.S.C. §§ 6101-6108. The Court has the power to stop Peterson and his unlawful activities. In aid of this, the FTC respectfully moves the Court for a Temporary Restraining Order ("TRO") to immediately halt Peterson's scheme, including by suspending the means he uses to run it, and to freeze Peterson's assets. The TRO would protect consumers and prevent further harm, and it would preserve the Court's ability to provide complete and permanent relief in this case. To give the TRO full effect, the FTC asks that the Court grant it without advance notice to Peterson. As detailed below, Peterson has a history of dissipating assets intended for veterans, including by using ill-gotten gains for his personal benefit, and he has shown a disregard for law enforcement and court orders issued against him. Further, the FTC requests that the Court order Peterson to show cause why a preliminary injunction should not issue against him. A proposed TRO is attached.

II. STATEMENT OF FACTS¹

A. The Defendant's Fake Veterans' Charity Scheme

In November 2016, Patricia Overkleeft of Las Vegas, Nevada, began receiving robocalls on her home landline phone. The recorded messages asked for donations of vehicles or watercraft to "Veterans of America."² She did not pay much attention to the first two or three of these robocalls because she had never heard of Veterans of America or had any previous dealings with it.³ Later that same month, she received yet another call. Her caller ID displayed the caller's name as "unavailable" with the phone number (702) 219-0054, but when she picked up the phone, she heard the same robocall. This time, she listened to the entire recorded message: it was a female voice soliciting donations of cars or boats to a purported veteran charity called Veterans of America and instructing her to "press 1" to donate.⁴

Ms. Overkleeft does not recall the exact words of the robocall she received, but it likely stated something to this effect⁵:

If you have been thinking about donating your car, real estate, or timeshare to charity, please consider donating to Veterans of America. Donations are tax deductible, and all real estate donations are deductible for full market value. We accept all types

¹ In support of the Motion for *Ex Parte* TRO, the FTC submits 46 exhibits, including sworn declarations from consumers, FTC Investigator John Vega, a data analyst retained by the FTC, and the operator of a robocall blocking service. The exhibits also include public records, business records obtained from third parties, transcripts of two undercover calls conducted by Investigator Vega, and two robocall recordings.

Exhibits are marked with and cited as "PX[number]" and, where appropriate, followed by a unique document identifier or the exhibit page number(s). Declarations are initially cited as "PX[number], [last name] Decl., ¶ [number], Attach. [letter]" and subsequently as "PX[number], ¶ [number], Attach. [letter]," unless noted otherwise below. Transcripts of the undercover calls are cited as "PX[number], [Call Number Tr.], pp:ln1-ln2," where "pp" is the page number, "ln1" is the first cited line, and "ln2" is the last cited line. The FTC concurrently filed an Exhibit List.

² PX32, Overkleeft Decl. ¶ 4.

³ *Id.*

⁴ *Id.*, ¶ 4-5.

⁵ Sworn consumer declarations and complaints show that Peterson has used at least three versions of the robocall. *See, infra*, Section II.A.2.

of vehicle, boats, real estate, and timeshare. If you would like to talk to someone about donating now, press 1. To be taken off of our list and not contacted again, press 9. Thank you.⁶

As instructed by the robocall she received, Ms. Overkleeft pressed “1” and was transferred to a live person, a male who greeted her by saying, “Oh, you have a Ferrari for me?” Jokingly, she responded, “No I’m keeping that one for myself,” and said, “I do have an old car to donate.”⁷ At the time, she owned a 1989 Oldsmobile Delta 88 Royale that she wanted to donate.⁸

During the brief call, the representative, who introduced himself as “Travis,” asked Ms. Overkleeft basic information about the car she wanted to donate and then took her name and address to arrange for pick up.⁹ One to two hours later, a representative from a local towing company called her and said he was on the way to pick up the car; shortly after that, he arrived at her home. Ms. Overkleeft, who is disabled and uses a wheelchair, gave her car key to the representative and told him where her car was parked, since she could not go outside with him on her wheelchair.¹⁰ She was so glad that her donation was going to help veterans because she felt that veterans do not get enough help and that donating her car was the least she could do to help.¹¹

Unbeknownst to Ms. Overkleeft, Veterans of America is a fake charity run by Peterson. Her car donation likely did not go toward helping veterans, as she was led to believe.¹² Patricia

⁶ PX30 is an exemplary recording of this robocall. As explained in the sworn declaration of Aaron Foss, the robocall was recorded and transcribed by Nomorobo, a publicly available service for blocking robocalls. *See* PX12, Foss Decl., ¶¶ 13-14.

⁷ PX32, ¶ 6.

⁸ *Id.*, ¶ 3.

⁹ *Id.*, ¶ 7.

¹⁰ *Id.*, ¶ 10.

¹¹ *Id.*, ¶ 8.

¹² *Id.*, ¶ 9.

Overkleeft's experience is just one example of how Peterson has solicited and, in numerous instances, successfully deceived consumers into donating cars and boats to his fake veterans' charity, as further detailed below.

1. The Defendant's Scheme Uses Unlawful Robocalls to Solicit Donations

Since at least 2012, Peterson has been soliciting donations to one of his fake charities using telephone calls that deliver prerecorded messages—more commonly known as “robocalls.” As detailed in a news article,¹³ on Memorial Day in 2012, Peterson sent robocalls to Las Vegas consumers to solicit car donations to a purported charity called “Medal of Honor.”¹⁴ The article explains that in fact, Medal of Honor, Peterson's Nevada corporation, was not a charitable organization with tax exempt status recognized by the Internal Revenue Service (“IRS”). Nevertheless, when he was interviewed for the article in June 2012, Peterson claimed that Medal of Honor was a charity. He also admitted that, while he had received some donated vehicles, he had not used any of the proceeds toward scholarship funds for children of fallen Nevada veterans, as his solicitations promised.¹⁵ Subsequently, Peterson has used other “charity” names in his robocalls, including, for example, “Act of Valor,” “Saving Our Soldiers,” “Donate Your

¹³ PX9, Keith Rogers, “Group called deceptive for using Medal of Honor name,” LAS VEGAS REVIEW-JOURNAL (June 30, 2012).

¹⁴ *Id.* at 2.

¹⁵ *Id.* at 3. According to the article, Peterson also solicited donations through the newspaper. The solicitation stated, in part, “Donate your car! Running or not. Scholarships for Children of Nevada's fallen servicemen. Same day pickup. We do all paperwork. Highest tax deduction in Nevada,” and it listed the website mohcars.com. *Id.* The FTC has confirmed that Peterson owned and operated this and other websites, which solicited donations to a purported charity. *See* PX1, Vega Decl., ¶¶ 37, 42 (www.cars.vet, www.soscars.org, www.aovcars.com, www.mohcars.com); *see also* PX23 through PX26 (captures of archived websites).

Car,” and “Vehicles for Veterans.”¹⁶ Today, he is using the name “Veterans of America.”¹⁷

To solicit donations to Veterans of America, Peterson blasts out millions of robocalls across the country, allowing him to reach millions of potential donors. For example, call detail records (“CDRs”) obtained from Peterson’s current telephone service provider show that, during the period of April 1, 2017 to December 29, 2017, Peterson made a total of 6,155,592 outbound calls.¹⁸ Analysis of the CDRs show that, of the total outbound calls, 6,137,663 (or 99.7%) were robocalls¹⁹ and 6,124,921 (or 99.5%) were delivered to consumers in Arizona, California, Florida, Illinois, Nevada, New York, Texas, and Utah.²⁰

Apart from targeting particular states, Peterson blasts out the robocalls indiscriminately.²¹ Sworn consumer declarations, including from Patricia Overkleeft,²² as well as FTC Investigator Vega’s review of over 6,600 consumer complaints²³ demonstrate that Peterson has delivered robocalls to consumers who have never donated to or had any previous dealings with Veterans of America. As discussed in Section III.B.1 below, delivering robocalls that induce charitable

¹⁶ See, e.g., PX34, Whitlock Decl., ¶ 4 (“Act of Valor” and “Donate Your Car”); PX46, McDaniel, ¶ 3 (same); PX35, Durham Decl., ¶ 3 (“Act of Valor”); PX36, Hill Decl., ¶ 3 (same); PX37, McCaskill Decl., ¶ 4 (“Saving Our Soldiers”); PX38, Bach Decl., ¶ 3 (“Saving Our Soldiers” and “Donate Your Car”); PX39, Keough Decl., ¶ 3 (“Vehicles for Veterans”); see also PX1, ¶¶ 21-23.

¹⁷ See PX32, ¶ 4; PX40, Edwards Decl., ¶ 3; PX41, Grams Decl., ¶ 3; PX42, Halvorson Decl., ¶ 4; PX43, Maresh Decl., ¶ 4; PX44, DiBlasi Decl., ¶ 3; PX45, Skaff Decl., ¶ 3; PX46, ¶ 3; see also PX1, ¶¶ 22, 24.

¹⁸ PX13, Blystone Decl., ¶ 12 & Attach. A. Patricia Blystone is a data analyst retained by the FTC to analyze the CDRs obtained from Peterson’s current telephone service provider.

¹⁹ See PX1, ¶ 43; PX27.

²⁰ PX13, Attach. B, Chart 2.

²¹ Indeed, Peterson has delivered robocalls to consumers who have specifically requested the “charity” not to call again, see PX1, ¶¶ 21-24, as well as to consumers whose phone numbers are on the national Do Not Call Registry. See PX13, ¶ 12 & Attach. A (stating that 3,531,003 or over 57% of the total outbound calls were made to phone numbers on the Registry).

²² PX32, ¶ 4; PX34, ¶ 6; PX35, ¶ 4; PX36, ¶ 5; PX37, ¶ 5; PX38, ¶ 4; PX39, ¶ 4; PX40, ¶ 4; PX41, ¶ 5; PX42, ¶ 5; PX43, ¶ 5; PX44, ¶ 4; PX45, ¶ 4.

²³ PX1, ¶¶ 20-24.

contributions to such consumers is illegal under the TSR, 16 C.F.R. § 310.4(b)(1)(v).

2. The Defendant's Scheme Uses Deceptive Representations to Solicit Donations

Not only is the call itself illegal, but the robocall message also makes false and deceptive representations to convince consumers to donate. Sworn declarations and consumer complaints show that Peterson has used at least three versions of the robocalls.²⁴ One version, such as the one that Patricia Overkleeft received, instructs consumers interested in donating to “press 1.”²⁵ Another version, such as follows, instructs consumers to call a toll-free phone number²⁶:

If you have been thinking about donating your car, real estate, or timeshare to charity, please consider donating to Veterans of America. Donations are itemized tax deductible, and all real estate donations are deductible for full market value. We also accept most timeshares, so call us today at 1-800-669-0250. Thank you.²⁷

An earlier version, such as follows, invited consumers to call a toll-free phone number or visit a website for one of Peterson's fake charities²⁸:

If you've been thinking of donating your car or real estate to charity, consider donating to Saving Our Soldiers. We take care of Illinois fallen servicemen. Your donation, whether real estate or vehicle, is completely tax deductible. Trucks, boats, RVs, trailers, anything of value, whether they're running or not. So give us a call at (847) 607-6664 or look us up on the internet at soscars.org.

While these versions differ in terms of how consumers could respond to the robocalls, they are substantively the same in terms of soliciting donations. Specifically, the robocalls claim or represent that the entity identified in the recorded message is a charity and that donations to

²⁴ See PX1, ¶ 25.

²⁵ See PX32, ¶ 5; PX 38, ¶ 4; PX41, ¶ 4; PX43, ¶ 4.

²⁶ See PX33, Patel Decl., ¶ 6; PX36, ¶ 4; PX39, ¶ 3; PX40, ¶ 3; PX42, ¶ 4; PX45, ¶ 3; PX46, ¶¶ 3-4.

²⁷ PX31 is an exemplary recording of this robocall provided to the FTC by Nomorobo. See PX12, ¶¶ 13-14.

²⁸ See, e.g., PX37, ¶ 4 (instructed to visit soscars.org); see also PX1, ¶ 25.

that entity are tax deductible.²⁹

In fact, as Investigator Vega confirmed through the IRS,³⁰ none of Peterson’s fake charities—including those mentioned in the robocalls, such as Medal of Honor, Act of Valor, Donate Your Car, Saving Our Soldiers, Vehicles for Veterans, and now Veterans of America—has been recognized as a charitable organization with 501(c)(3) tax exempt status; therefore, donations to any of them are not tax deductible under the IRC. Accordingly, as discussed further in Section III.B.1 below, the claims or representations in Peterson’s robocalls are deceptive and illegal under the FTC Act, 15 U.S.C. § 45(a), and the TSR, 16 C.F.R. § 310.3(d)(1) and (d)(2).

3. The Defendant Is Operating the Scheme for His Personal Benefit

In numerous instances, consumers interested in donating responded to the robocalls and were connected to a “charity” representative. Much like Patricia Overkleeft’s experience,³¹ the representative asks only a few questions designed to secure the donation, including the make, model, and condition of the vehicle to be donated, the consumer’s name and address, and the date and time when the vehicle can be picked up from the consumer. Ameeta Patel of Allen, Texas, had a similar experience when she donated two vehicles to Peterson’s “charity” in July and September of 2015.³²

If a consumer asks about the “charity” or the tax deduction, Peterson or his representative may provide answers designed to convince the consumer to donate and tells the consumer that a donation receipt would be provided for tax deduction purposes. During her initial call with “Travis,” Ms. Overkleeft did not ask about the charity since she “believed that Veterans of

²⁹ Peterson’s websites—which look very similar and contain largely the same statements—echoed and reinforced these claims. *See* PX1, ¶¶ 42; PX23 through PX26.

³⁰ PX1, ¶¶ 27-29.

³¹ PX32, ¶ 7.

³² PX33, ¶¶ 7, 11.

America was a charity that helps veterans because of the robocall message and the name ‘Veterans of America.’”³³ However, after the initial call, she attempted multiple times to get more information about Veterans of America, but none of its representatives gave her any answers.³⁴ When Ms. Patel asked for more information about the charity, the representative simply told her that “they ‘take care’ of homeless veterans and disabled or injured veterans” and that she would get a “receipt” for her donation when the towing company picks up her car.³⁵ Much like Ms. Overkleeft, Ms. Patel “always believed that [she] was giving to a real charity for a good cause.”³⁶

After Peterson receives the donated vehicles and watercraft, he typically sells them through online vehicle auction companies. Between May 2014 to November 2016, Peterson received 1,114 vehicles and watercraft, which he sold through auction. Business records from the auction company show that the sales netted Peterson over \$359,704 in proceeds.³⁷ Other records show that Peterson is currently using a second auction company and has received over \$94,461 during the period of October 2016 through April 2018, alone.³⁸ Additional evidence

³³ PX32, ¶ 9 (“Travis didn’t say anything on the phone that made me doubt that I was donating to a charity.”). During an undercover call conducted by Investigator Vega on March 30, 2018, the representative explained that Veterans of America is a “program just for vehicles to give to veterans.” PX1, ¶ 46(c); PX29, Call 3 Tr. 5:1-2.

³⁴ PX32, ¶¶ 9-11, 16.

³⁵ PX33, ¶ 8 (“[I] didn’t think to ask more questions because I believed she was working for a real charity.”). During another undercover call conducted by Investigator Vega on March 13, 2018, the representative explained the purported tax deductibility of donations, stating, “Real estate you can deduct over five years. Cars, on the value of the vehicle, you can only write off over one year.” PX1, ¶ 46(a); PX28, Call 1 Tr. 7:7-9. When Investigator Vega asked how he could find out what happens to a donated car, the representative abruptly hung up the phone. *See* PX28, 7:19-8:4.

³⁶ PX33, ¶ 16.

³⁷ PX1, ¶ 38(b).

³⁸ *Id.*, ¶ 35(d).

shows that Peterson also sells vehicles for parts.³⁹

In turn, Peterson uses substantial portions of the proceeds to continue running the scheme. For example, bank records show that he paid substantial funds for telephone services, automatic dialing technology (or “auto-dialers”) used to blast out robocalls, computer servers, advertising, towing services, and website services.⁴⁰ Peterson also uses the proceeds of consumer donations for his personal benefit. For example, bank records show that he used the money to pay for vacations, restaurants, movies, online dating or matchmaking services, groceries, gasoline purchases, and cell phone payments.⁴¹ Other substantial expenditures that appear to be personal in nature include the purchase of an ATV (all-terrain vehicle) for over \$14,000, a certificate of deposit in Peterson’s name for \$10,000, and several checks totaling over \$9,000 issued to two individuals with the same last name as Peterson.⁴²

B. The Defendant Has the Authority to Control, Participates in, and Knows of the Scheme’s Unlawful Activities

Defendant Travis Deloy Peterson, also known as Travis Peterson and T. D. Peterson, is a Utah resident and is the sole owner, member, principal, officer, and operator of a series of now-dissolved or defunct Michigan and Nevada corporate entities and unregistered fictitious business names,⁴³ all of which he created and used to carry out the scheme. As noted, none of these entities or fictitious names has been recognized by the IRS as a charitable organization with tax exempt status;⁴⁴ therefore, donations to any of them are not tax deductible.

³⁹ PX1, ¶ 35(g). For example, bank records show that Peterson received a \$400 check for “5 vehicles for parts” from Quick Tow, which is the same company that picked up Patricia Overkleef’s donated car. See PX32, ¶¶ 14-15 & Attach. A. Indeed, in the 2012 news article, Peterson admitted to selling donated cars to the scrap yard if he deemed them to be “junk.” PX9 at 3.

⁴⁰ PX1, ¶¶ 32(g), 33(k), 35(e).

⁴¹ *Id.*, ¶¶ 32(h), 33(f) & (l), 35(h).

⁴² *Id.*, ¶¶ 32(h), 34(k), (l) & (o).

⁴³ *Id.*, ¶¶ 5-13.

⁴⁴ *Id.*, ¶¶ 27-29.

Peterson has used the names Medal of Honor,⁴⁵ Act of Valor, Donate Your Car,⁴⁶ Saving Our Soldiers, and Vehicles for Veterans,⁴⁷ and is now using Veterans of America, in the robocalls to solicit donations from consumers.⁴⁸ Business records show that Peterson was involved in the delivery of the robocalls using auto-dialers.⁴⁹ Further, sworn declarations indicate that he was personally involved in at least some of the calls with consumers.⁵⁰

In turn, Peterson used Donate That Car LLC (MI),⁵¹ Donate That Car LLC (NV),⁵² and is now using Telefunding LLC,⁵³ to conduct the business associated with the robocalls. For example, business records show that Peterson personally retained and managed the telephone services and auto-dialers used to solicit and call consumers—from the setup and use of the equipment, payment for the services, and down to the details of what name appears on the caller

⁴⁵ Peterson was the president, secretary, treasurer, director, registered agent, and incorporator of Medal of Honor, a Nevada nonprofit corporation with a “Revoked” status since April 30, 2013. *See* PX1, ¶ 5; PX2.

⁴⁶ Peterson also used the fictitious name “Donate Your Car” to open two accounts with a telephone service provider. *See* PX1, ¶ 40; PX22.

⁴⁷ Peterson was the sole member of Vehicles for Veterans LLC, a Michigan for-profit company with a “Dissolved” status since November 16, 2015. *See* PX1, ¶ 11; PX5. He also used the name “Vehicles 4 Veterans” to open two accounts with a vehicle auction company. *Id.*, ¶ 38(e)-(f).

⁴⁸ PX1, ¶¶ 21-24. Act of Valor, Donate Your Car, Saving Our Soldiers, and Veterans of America are unregistered fictitious business names. *Id.*, ¶¶ 6, 8-9, 13.

⁴⁹ *See* PX1, ¶¶ 32(g), 33(k), 35(e), 40(d).

⁵⁰ *See* PX32, ¶¶ 6-7; PX33, ¶ 14. There is also evidence that Peterson hired telemarketers to deal with consumers. *See, e.g.*, PX32, ¶ 16 (spoke with “Terry”); PX33, ¶¶ 6-8, 14 (spoke with a female representative and later with “Veronica”).

⁵¹ Peterson was the sole member and registered agent of Donate That Car LLC, a Michigan for-profit company, with a “Not in Good Standing” status since February 15, 2017. *See* PX1, ¶ 7; PX3.

⁵² Peterson was the sole member, registered agent, and organizer of Donate That Car LLC, a Nevada for-profit company with a “Revoked” status since March 31, 2015. *See* PX1, ¶ 10; PX4.

⁵³ Peterson was the sole member, secretary, registered agent, and organizer of Telefunding LLC, a Nevada for-profit company with a “Revoked” status since February 29, 2016. *See* PX1, ¶¶ 12, 35(b); PX6.

ID of consumers receiving the calls.⁵⁴ When the scheme used websites as part of its solicitation, Peterson was the only person identified as responsible for the accounts and websites of the fake charities.⁵⁵ Peterson also closely controlled the accounts with the auction company used to sell donated vehicles, including by providing the auction company with a script and instructions to follow when contacting consumers who have donated vehicles to Peterson’s “charity.”⁵⁶ Significantly, Peterson has the sole control over the scheme’s finances. He is the only authorized signatory for several corporate bank accounts⁵⁷ used to receive the scheme proceeds and to pay for the business and personal expenses described above.

III. LEGAL ARGUMENT

The Court has the power to immediately stop Peterson’s fake veterans’ charity scheme and to preserve the possibility of effective final relief in this case. As set forth below, the evidence demonstrates that the FTC is likely to succeed on the merits of the case and that the equities weigh in favor of granting the FTC’s requested relief.

A. Section 13(b) of the FTC Act Authorizes the Court to Grant the FTC’s Requested Relief

The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair and deceptive acts or practices in or affecting commerce. The FTC also enforces the Telemarketing Sales Rule, 16 C.F.R. Part 310, which prohibits deceptive and abusive telemarketing acts or practices. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), gives the Court authority to issue permanent injunctive relief to enjoin practices that violate any law enforced by

⁵⁴ See PX1, ¶¶ 39-40; PX 21; PX 22.

⁵⁵ See PX1, ¶¶ 36-37; PX 18; PX 19 (identifying Peterson as the Registrant Contact, Technical Contact, Administrative Contact, and Billing Contact for several accounts).

⁵⁶ PX1, ¶ 38(c)-(f). The script and instructions stated, in part, “WHEN CALLING SAY: ‘I’M CALLING ON BEHALF OF SAVING OUR SOLDIERS’ CHARITY. MAKE SURE DONOR HAS TITLE. ASK DONOR TO SEND TITLE TO YARD.” *Id.* at ¶ 38(c)-(d).

⁵⁷ See *id.*, ¶¶ 32(b), 33(b) & (i), 34(b), 35(b); PX14 through PX17.

the FTC and to grant “any ancillary relief necessary to accomplish complete justice.”⁵⁸ This ancillary relief may encompass “the full range of equitable remedies,” including a temporary restraining order, a preliminary injunction, an asset freeze, and any other measures that the Court deems necessary to protect consumers and preserve the possibility for complete and permanent relief.⁵⁹ Indeed, when the public interest is involved, the court’s equitable powers “assume an even broader and more flexible character.”⁶⁰ The District of Utah and other district courts in the Tenth Circuit have granted the type of preliminary relief the FTC seeks here,⁶¹ as described below, including issuing the temporary restraining order *ex parte*.⁶²

B. The FTC Demonstrates a Likelihood of Success on the Merits and the Equities Weigh in Favor of Granting the FTC’s Requested Relief

To obtain a Temporary Restraining Order, the FTC must show “(1) a likelihood of success on the merits; and (2) that a balance of the equities weighs in favor of granting the

⁵⁸ *FTC v. Commerce Planet, Inc.*, 815 F.3d 593, 598 (9th Cir. 2016).

⁵⁹ *FTC v. LoanPointe, LLC*, 525 F. App’x 696, 699 (10th Cir. 2013); *FTC v. Freecom Commc’ns, Inc.*, 401 F.3d 1192, 1202 n.6 (10th Cir. 2005); *see also FTC v. Skybiz.com, Inc.*, No. 01-CV-396-K(E), 2001 U.S. Dist. LEXIS 26175, at *23 (N.D. Okla. Aug 31, 2001), *aff’d*, 57 F. App’x 374 (10th Cir. 2003) (“Section 13(b) also empowers this Court to grant...*any measures* that may be needed to make permanent relief possible.”) (emphasis added).

⁶⁰ *Porter v. Warner Holding Co.*, 328 U.S. 395, 398 (1946)); *accord Skybiz.com*, 2001 U.S. Dist. LEXIS 26175, at *23-24.

⁶¹ *See, e.g., FTC v. Your Yellow Book, Inc.*, No. 5:14-cv-00786-D (Doc. 10) (W.D. Okla. July 25, 2014) (unpublished) (*ex parte* TRO with conduct prohibitions, asset freeze, and financial disclosure requirement); *FTC v. Apply Knowledge, LLC*, No. 2:14-cv-00088-DB (Doc. 16) (D. Utah Feb. 11, 2014) (unpublished) (same); *Skybiz.com*, No. 01-CV-396-K(E) (Doc. 12) (N.D. Okla. June 6, 2001) (unpublished) (*ex parte* TRO with conduct prohibitions and asset freeze); *cf. FTC v. Vision Solution Mktg. LLC*, No. 2:18-cv-00356-TC (Doc. 41) (D. Utah. May 4, 2018) (unpublished) (stipulated TRO with conduct prohibitions, asset freeze, financial disclosure requirement); *LoanPointe*, No. 2:10-cv-00225-DAK (Doc. 14) (D. Utah Apr. 2, 2010) (unpublished) (stipulated preliminary injunction with conduct prohibitions and financial disclosure requirement).

⁶² When it amended the FTC Act in 1994, Congress reemphasized the FTC’s authority to seek preliminary injunctive relief *ex parte*: “Section 13 of the FTC Act authorizes the FTC to file suit to enjoin any violation of the FTC [Act]. The FTC can go into court *ex parte* to obtain an order freezing assets, and is also able to obtain consumer redress.” S. Rep. No. 130, 103rd Cong., 2d Sess. 15-16, *reprinted in* 1994 U.S.C.C.A.N. 1776, 1790-91.

requested relief.”⁶³ Unlike private litigants, “it is not necessary for the FTC to demonstrate irreparable injury.”⁶⁴ Here, the FTC meets the requirements to obtain a TRO.

1. The FTC Demonstrates a Likelihood of Success on the Merits

a. The Defendant’s Use of Robocalls to Solicit Donations is Illegal under the TSR, 16 C.F.R. § 310.4(b)(1)(v)

Peterson’s use of robocalls to solicit donations violates the TSR. In 1994, Congress directed the FTC to prescribe rules prohibiting abusive and deceptive telemarketing acts or practices pursuant to the Telemarketing Act, 15 U.S.C. § 6101 *et seq.* The FTC then promulgated and subsequently amended the TSR, 16 C.F.R. Part 310,⁶⁵ which prohibits various deceptive and abusive telemarketing practices, including those relating to charitable contributions. *See* 16 C.F.R. §§ 310.3, 310.4. Among those, the TSR prohibits telemarketers from initiating an outbound telephone call that delivers a prerecorded message—a “robocall”—to induce a charitable contribution, unless the call is sent to “a member of, or previous donor to, a non-profit charitable organization” on whose behalf the call is made and the call complies with additional technical requirements under the TSR (such as providing the recipient an automated mechanism to opt-out of receiving future calls). 16 C.F.R. § 310.4(b)(1)(v).

Here, as discussed, the analysis of CDRs obtained from Peterson’s current telephone service provider shows that he has sent and/or caused to be sent millions of robocalls to

⁶³ *FTC v. Your Yellow Book*, No. 5:14-cv-00786-D, 2014 U.S. Dist. LEXIS 116524, at *11 (W.D. Okla. Aug. 21, 2014); *see also Skybiz.com*, 2001 U.S. Dist. LEXIS 26175 at *21-22 (citing *FTC v. World Travel Vacation Brokers, Inc.*, 861 F.2d 1020, 1029 (7th Cir. 1988)).

⁶⁴ *Skybiz.com*, 2001 U.S. Dist. LEXIS 26175 at *21-22 (“As irreparable harm is presumed in a statutory enforcement action, the district court need only find some chance of probable success on the merits.”) (citing *FTC v. World Wide Factors, Ltd.*, 882 F.2d 344, 347 (9th Cir. 1989)).

⁶⁵ Pursuant to Section 3(c) of the Telemarketing Act, 15 U.S.C. § 6102(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the TSR constitutes an unfair or deceptive act or practice in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

consumers across the country.⁶⁶ In turn, sworn declarations and numerous complaints show that Peterson sent the robocalls to consumers who had never donated to or had any previous dealings with Veterans of America or any of his fake charities. Therefore, Peterson’s use of the robocalls is an abusive telemarketing act or practice in violation of the TSR.

b. The Defendant’s Deceptive Representations to Solicit Donations Are Illegal under Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the TSR, 16 C.F.R. § 310.3(d)(1) and (d)(2)

Not only is the use of the robocalls illegal, but the robocall message also makes deceptive representations that violate the FTC Act and the TSR. Section 5 of the FTC Act prohibits unfair or deceptive acts or practices in or affecting commerce. “An act or practice is ‘deceptive’ if it involves a material representation or omission that is likely to mislead consumers, acting reasonably under the circumstances, to their detriment.”⁶⁷ A representation is material if it involves information that is important to consumers and is “likely to affect a consumer’s choice of or conduct regarding [the subject of the representation].”⁶⁸ Express and deliberate claims are presumed to be material.⁶⁹ In showing whether a representation is likely to mislead, the FTC does not need to show that a defendant had the intent to deceive; “[i]nstead, the ‘cardinal factor’ in determining whether an act or practice is deceptive under § 5 is the likely effect the promoter’s handiwork will have on the mind of the ordinary consumer.”⁷⁰ Further, “[w]hile

⁶⁶ Peterson has initiated and received phone calls to or from consumers (or donors) in connection with his fake veterans’ charity scheme. Therefore, he is a “telemarketer” engaged in “telemarketing” as defined by the TSR, 16 C.F.R. §§ 310.2 (ff) and (gg).

⁶⁷ *FTC v. LoanPointe, LLC*, No. 2:10-CV-225DAK, 2011 U.S. Dist. LEXIS 104982, *9-10 (D. Utah Sep. 16, 2011), *aff’d on other grounds*, 525 F. App’x 696 (10th Cir. 2013) (citation omitted).

⁶⁸ *LoanPointe*, 2011 U.S. Dist. LEXIS 104982 at *13 (citation omitted); *see also FTC v. Cyberspace.com, LLC*, 453 F.3d 1196, 1201 (9th Cir. 2006) (“A misleading impression created by a solicitation is material if it involves information that is important to consumers and, hence, likely to affect their choice of, or conduct regarding, a product.”) (internal quotation omitted).

⁶⁹ *LoanPointe*, 2011 U.S. Dist. LEXIS 104982 at *10 (citation omitted).

⁷⁰ *Freecom*, 401 F.3d at 1202.

proof of actual deception is unnecessary to establish a violation of Section 5, such proof is highly probative to show that a practice is likely to mislead consumers acting reasonably under the circumstances.”⁷¹

Further, the TSR prohibits telemarketers from misrepresenting the nature, purpose, or mission of any entity on behalf of which a charitable contribution is being requested, 16 C.F.R. § 310.3(d)(1), and that any charitable contribution is tax deductible in whole or in part, 16 C.F.R. § 310.3(d)(2).

Here, the robocalls Peterson used to solicit donations make two separate but related representations: first, that the entity identified in the robocalls—*i.e.*, Medal of Honor, Act of Valor, Donate Your Car, Saving Our Soldiers, Vehicles for Veterans, or now Veterans of America—is a charity; second, that donations to the identified entity are tax deductible.

These representations are material. They are express and deliberate claims that the entity identified in the robocall is a “charity” and the donations to it are “tax deductible,” “itemized tax deductible,” and “completely tax deductible.” These are important pieces of information intended to convince consumers to donate their cars, boats, and other valuable property to Peterson’s “charity.”

These representations are likely to mislead consumers acting reasonably under the circumstances. Taken together, these representations create the impression that the entity identified in the robocall has been recognized by the IRS as a charitable organization with tax exempt status, which, in turn, makes donations to it tax deductible under the IRC.⁷²

Organizations described in Section 501(c)(3) of the IRC are commonly referred to by the IRS

⁷¹ *FTC v. E.M.A. Nationwide, Inc.*, 767 F.3d 611, 633 (6th Cir. 2014) (citation omitted).

⁷² *See, e.g.*, PX33, ¶ 8 (“I asked her for a receipt of my donation so that I could use it to get a tax deduction.”); ¶ 14 (“I asked Travis ‘Can you send me a receipt for my tax purposes?’”).

as “charitable organizations.”⁷³ To obtain 501(c)(3) tax exempt status, an entity must be organized and operated exclusively for one of the exempt purposes set forth in Section 501(c)(3),⁷⁴ and none of its net earnings may inure to any private shareholder or individual.⁷⁵ In turn, donations to charitable organizations with 501(c)(3) tax exempt status are tax deductible under Section 170 of the IRC.⁷⁶ Sworn declarations and business records show that numerous consumers were actually misled by these representations (in some instances, more than once)⁷⁷— “such proof is highly probative to show that [the representations are] likely to mislead consumers acting reasonably under the circumstances.”⁷⁸

⁷³ See generally <https://www.irs.gov/charities-non-profits/charitable-organizations/exemption-requirements-section-501c3-organizations> (last visited June 20, 2018).

⁷⁴ See <https://www.irs.gov/charities-non-profits/charitable-organizations/exempt-purposes-internal-revenue-code-section-501c3> (last visited June 20, 2018) (“The exempt purposes set forth in section 501(c)(3) are charitable.... The term *charitable* is used in its generally accepted legal sense and includes relief of the poor, the distressed, or the underprivileged....”) (emphasis in original).

⁷⁵ Section 501(a) and (c)(3) of the IRC, 26 U.S.C. § 501(a) and (c)(3), state, in part:
 (a) Exemption from taxation
 An organization described in subsection (c) or (d) or section 401(a) shall be exempt from taxation under this subtitle unless such exemption is denied under section 502 or 503.

....
 (c) List of exempt organizations
 The following organizations are referred to in subsection (a):

....
 (3) Corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes...., no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office.

⁷⁶ Section 170(a), 26 U.S.C. § 170(a)(1) states, in part:
 (a) Allowance of deduction
 (1) General rule
 There shall be allowed as a deduction any charitable contribution (as defined in subsection (c)) payment of which is made within the taxable year....

⁷⁷ See PX1, ¶¶ 38; PX32, ¶¶ 8-9; PX33, ¶¶ 5, 8, 16.

⁷⁸ *E.M.A. Nationwide*, 767 F.3d at 633.

These representations are false. As discussed above, none of the purported charities identified in Peterson's robocalls, including Veterans of America, has been recognized as a charitable organization with 501(c)(3) tax exempt status pursuant to the IRC. Thus, without the requisite 501(c)(3) tax exempt status, donations to any of Peterson's fake charities are not tax deductible under the IRC. Therefore, the representations are deceptive, in violation of the FTC Act and the TSR.

Accordingly, the FTC is likely to succeed on the merits of Counts I through III in the Complaint.

2. The Equities Weigh in Favor of Granting the FTC's Requested Relief

Not only has the FTC demonstrated a likelihood of success on the merits, but the balance of the equities also weighs in favor of granting the requested relief. "When a district court balances the hardships of the public interest against a private interest, the public interest should receive greater weight."⁷⁹ No individual has a legitimate interest in continuing to operate an unlawful scheme; thus, "there is no oppressive hardship to defendants in requiring them to comply with the FTC Act, refrain from fraudulent representation, or preserve their assets from dissipation or concealment."⁸⁰ Where the danger of asset dissipation exists, "the public interest in preserving the illicit proceeds of the [] scheme... is great."⁸¹ Indeed, "a court of equity [has] no duty...to protect illegitimate profits or advance business which is conducted by [unlawful] business methods."⁸²

Here, Peterson is running an unlawful scheme disguised as an honorable way to help

⁷⁹ *Skybiz.com*, 2001 U.S. Dist. LEXIS 26175 at *23 (citing *FTC v. Affordable Media, Inc.*, 179 F.3d 1228, 1236 (9th Cir. 1999)). "Balancing the equities tips in favor of the public interest in issuing such relief to federal agencies like the FTC." *Id.* at *22. (citing *World Wide Factors, Ltd.*, 882 F.2d at 347).

⁸⁰ *World Wide Factors*, 882 F.2d at 347.

⁸¹ *Affordable Media*, 179 F.3d at 1236.

⁸² *FTC v. Thomsen-King & Co.*, 109 F.2d 516, 519 (7th Cir. 1940)).

American veterans. Not only is the scheme harming consumers but it is also disadvantaging legitimate veterans' charities vying for donations. Further, the evidence shows that Peterson is dissipating the proceeds of the scheme to pay for the means used to run it and to fund his personal expenses. As detailed above, bank records show that Peterson has used proceeds of the donations for his personal benefit, including to pay for vacations, restaurants, movies, online dating or matchmaking services, groceries, gasoline and cellphone payments, as well as for an ATV and a certificate of deposit in Peterson's name both worth tens of thousands of dollars. The public interest in stopping the scheme and the dissipation of assets is great. And there can be no legitimate interest in allowing Peterson to continue this conduct. Accordingly, the equities weigh decidedly in favor of the FTC's requested relief.

3. The Defendant is Personally Liable for Injunctive and Monetary Relief

To obtain injunctive relief against an individual for a business entity's unlawful activities, the FTC must show that the individual participated directly in the unlawful activities or had the authority to control them.⁸³ An individual's controlling ownership of a closely held entity creates "a substantial inference" that the individual had the requisite authority to control.⁸⁴ Further, "a corporate officer is presumed to be in control of a small, closely held corporation and assuming the duties of a corporate officer is probative of an individual's participation or authority."⁸⁵

⁸³ *Freecom*, 401 F.3d at 1202-03; *LoanPointe*, 2011 U.S. Dist. LEXIS 104982 at *25-26.

⁸⁴ *Freecom*, 401 F.3d at 1205.

⁸⁵ *LoanPointe*, 2011 U.S. Dist. LEXIS 104982 at *26 (citations omitted); *see also FTC v. Am. Standard Credit Sys., Inc.*, 874 F. Supp. 1080, 1089 (C.D. Cal. 1994) ("Authority to control the company can be evidenced by active involvement in business affairs and the making of corporate policy"); *FTC v. Neovi, Inc.*, 598 F. Supp. 2d 1104, 1117 (S.D. Cal. 2008) (opining that the "authority to sign documents on behalf of the corporate defendant" can prove authority to control).

To obtain monetary relief against such an individual, the FTC must additionally show that the individual knew or should have known of the deceptive practices.⁸⁶ The knowledge element does not require proof of the individual's subjective intent to defraud consumers; the individual need only have actual knowledge of material misrepresentations, reckless indifference to the truth or falsity of such representations, or an awareness of a high probability of fraud coupled with the intentional avoidance of the truth.⁸⁷ "Participation in corporate affairs is probative of knowledge."⁸⁸ Further, the FTC must present "evidence tending to show consumers actually relied on the entity's deceptive acts or practices to their detriment"⁸⁹ However, the FTC is not required to show any particular consumer actually relied on or was injured by the deceptive practices.⁹⁰ "Instead, a presumption of actual reliance arises once the FTC has proved that the defendant made material misrepresentations, that they were widely disseminated, and that consumers [were] induced to [take] action..."⁹¹

Here, Peterson is liable for injunctive and monetary relief arising from the scheme's use of unlawful robocalls and the deceptive claims in them. As discussed in Section II above, the evidence shows that Peterson was personally involved in blasting out the robocalls and in at least some calls with consumers. Importantly, he is the sole owner and main operator of the unregistered fictitious business names used in the robocalls, and he is the sole member, officer, and authorized signatory of the corporate entities that conducted the business associated with the robocalls. Thus, he has the authority to control them and their actions. Moreover, evidence of

⁸⁶ *Freecom*, 401 F.3d at 1202-03; *LoanPointe*, 2011 U.S. Dist. LEXIS 104982 at *26-27.

⁸⁷ *Freecom*, 401 F.3d at 1207; *LoanPointe*, 2011 U.S. Dist. LEXIS 104982 at *26-27.

⁸⁸ *LoanPointe*, 2011 U.S. Dist. LEXIS 104982 at *27.

⁸⁹ *Freecom*, 401 F.3d at 1202-03.

⁹⁰ *Id.* at 1205-06.

⁹¹ *LoanPointe*, 2011 U.S. Dist. LEXIS 104982 at *10 (internal quotation and citation omitted); *see also Freecom*, 401 F.3d at 1206.

Peterson's extensive and exclusive handling of corporate affairs—including, for example, retaining, paying for, and managing the telephone services and auto-dialers, vehicle auction accounts, advertising, and websites—is probative of his knowledge of the unlawful activities. Finally, as evidenced by the numerous donations to Peterson's "charity," consumers actually relied on the representations in the robocalls that Peterson blasted across the country.

C. The Proposed Temporary Restraining Order is Appropriate and Necessary

The evidence demonstrates that the FTC is likely to succeed in proving Peterson's law violations, and the balancing of the equities tips in favor of granting the FTC's requested relief. Therefore, preliminary injunctive relief ordered by the Court is warranted. A proposed Temporary Restraining Order ("Proposed TRO") is attached. The Proposed TRO would accomplish, among other things, the following: (1) enjoin Peterson from making material misrepresentations and sending robocalls to solicit donations; (2) suspend the services or accounts Peterson uses to operate the scheme, and (3) freeze Peterson's assets and require a financial disclosure. As explained below, the ancillary relief requested through the Proposed TRO is necessary to protect consumers and to preserve the Court's ability to grant complete and permanent relief in this case.

1. It is Necessary to Enjoin the Defendant from Continuing to Operate The Scheme and to Suspend the Means He Uses to Operate It

Sworn consumer declarations, consumer complaints, and business and bank records show that Peterson is currently operating the scheme. To stop Peterson's ongoing law violations and prevent further consumer harm, the Proposed TRO includes provisions that would enjoin Peterson from making the kinds of misrepresentations and inducements that gave rise to this

action.⁹² Further, to curtail Peterson’s ability to continue running the scheme, the Proposed TRO also includes provisions that would suspend services or accounts used for that purpose, including any websites, advertising, auction, telephones and auto-dialers.⁹³ Such TRO provisions have been ordered in appropriate FTC cases.⁹⁴

2. It is Necessary to Freeze the Defendant’s Assets and To Require Him to Provide Financial Disclosures

Bank records show that Peterson has received at least \$454,000 in proceeds from the scheme; these records also show that he has used substantial amounts of the proceeds to fund the scheme and his personal lifestyle. The Proposed TRO includes provisions that would freeze Peterson’s assets and require him to provide a financial disclosure.⁹⁵ “An asset freeze may be imposed where the *possibility* of dissipation of assets exists.”⁹⁶ Here, given evidence of actual dissipation of assets, an asset freeze is needed to preserve the Court’s ability to provide restitution to victims. Further, an asset freeze would help ensure that Peterson ultimately does not reap any gains from his unlawful activities; should the FTC prevail in this case, the Court could require him to disgorge the equivalent of all of his ill-gotten gains. “[The] primary purpose [of disgorgement] is to deter violations of the laws by depriving violators of their

⁹² Proposed TRO, Section I. Also, Section II would prohibit Peterson from using or otherwise benefitting from customer information he has obtained through the scheme.

⁹³ Proposed TRO, Sections III through VI.

⁹⁴ See *supra* note 61; see also *FTC v. Repair All PC, et al.*, No. 1:17-cv-00869-DAP (Doc. 9) (N.D. Ohio Apr. 24, 2017) (unpublished) (*ex parte* TRO with conduct prohibitions, suspension of websites and telephone services, asset freeze, and financial disclosure requirement); *FTC v. Click4Support, LLC*, No. 15-5777 (Doc. 7) (E.D. Pa. Oct. 27, 2015) (unpublished) (*ex parte* TRO with the same provisions).

⁹⁵ Proposed TRO, Sections VII, IX. Related provisions include Section VIII, which requires third parties to preserve Peterson’s assets; Sections X and XI, which require Peterson to repatriate any foreign assets; and Section XII, which allows the FTC to independently search for Peterson’s assets and verify his financial disclosure.

⁹⁶ *FTC v. USA Bevs., Inc.*, No. 05-61682-CIV-LENARD/KLEIN, 2005 U.S. Dist. LEXIS 39075, at *25-26 (S.D. Fla. Dec. 5, 2005) (emphasis in original).

ill-gotten gains”;⁹⁷ it exists “to make violations unprofitable.”⁹⁸ The possibility of disgorgement is particularly important here because, as the District of Utah has recognized, it “serves to equalize the marketplace”—“[a] defendant[’s] violations should not allow [him] to profit more than other similar businesses who have complied with the law.”⁹⁹ Here, deterring operators of fake veterans’ charities, such as Peterson, would level the playing field for legitimate charities to obtain the funds they need to serve our veterans. Such TRO provisions have been ordered in appropriate FTC cases.¹⁰⁰

3. To Give the Court’s Order Full Effect, It is Necessary to Issue the TRO without Advance Notice to the Defendant

An *ex parte* TRO is necessary because, if provided with advance notice,¹⁰¹ Peterson is likely to dissipate and conceal his assets and destroy evidence.¹⁰² Given the fraudulent nature of his veterans’ charity scheme as well as his history of dissipating the proceeds of donations intended for veterans, there is a high likelihood of such adverse conduct by Peterson, thereby defeating the purpose of a TRO.¹⁰³

Indeed, if given notice, there is a high likelihood that Peterson would disregard the Court’s TRO or evade its restrictions. Public records show Peterson’s history of disregard for

⁹⁷ *LoanPointe*, 525 F. App’x at 698-99.

⁹⁸ *LoanPointe*, 2011 U.S. Dist. LEXIS 104982 at *32.

⁹⁹ *Id.*

¹⁰⁰ *See supra* note 94.

¹⁰¹ Fed. R. Civ. P. 65(b) authorizes the Court to issue a temporary restraining order *ex parte* if “immediate and irreparable injury, loss, or damage will result” from advance notice to Peterson. To further prevent premature notice, the FTC has filed concurrently an *Ex Parte* Motion to Temporarily Seal Entire File and Docket. In support of the FTC’s requests for an *ex parte* TRO and to temporarily seal this case, FTC counsel has filed concurrently a written Certification.

¹⁰² Proposed TRO, Section XIII requires Peterson to preserve records. Relatedly, Section VIII requires third parties to preserve records.

¹⁰³ *See, e.g., FTC v. Int’l Computer Concepts, Inc.*, No. 5:94CV1678, 1994 WL 730144, at *16 (N.D. Ohio Oct. 24, 1994) (“Where, as in this case, business operations are permeated by fraud, there is a strong likelihood that assets may be dissipated during the pendency of the legal proceedings.... Without an immediate freeze of assets, it is unlikely that funds will be available to satisfy any final order....”) (internal citation omitted).

law enforcement and court orders. For example, in May 2012, Peterson was sued in Michigan state court related to a real estate investment fraud allegedly operated by Peterson and two of his companies. The court twice ordered Peterson to appear for testimony and examination; he apparently disregarded both orders, prompting the court to issue a bench warrant for his arrest.¹⁰⁴ Separately, on February 6, 2013, the Utah Division of Consumer Protection (“DCP”) issued an Administrative Citation against Peterson related to his failure to register Medal of Honor as a charitable organization with DCP prior to soliciting donations in the State of Utah, in violation of state law. Peterson failed to contest the citation and, on May 3, 2013, DCP entered a Final Order by Default against him and assessed a \$500 fine.¹⁰⁵ To this day, Peterson has not paid the fine, prompting DCP to list him on Utah’s “Buyer Beware List.”¹⁰⁶

Public records also show Peterson’s apparent willingness to misrepresent or mislead—including to a federal district judge—in order to avoid accountability for his business practices. In August 2015, Peterson, along with Vehicles for Veterans LLC, Donate Your Car, and Saving Our Soldiers, was sued in a private class action suit in the Northern District of Illinois related to his alleged use of unsolicited robocalls. In response to the amended complaint, Peterson attempted to disclaim any connection with the suit by submitting a letter to the court in which he claimed, among other things, that he did not own the phone numbers alleged to have been used to deliver the robocalls.¹⁰⁷ However, business records obtained by the FTC from the telephone service provider confirm that Peterson, in fact, owned, managed, and paid for those phone numbers.¹⁰⁸

¹⁰⁴ See PX1, ¶ 19; PX11 (copy of the complaint).

¹⁰⁵ See PX1, ¶ 17; PX10 (copy of Administrative Citation and Final Order by Default).

¹⁰⁶ See PX1, ¶ 18; see also <https://consumerprotection.utah.gov/scams/buyer beware.html>.

¹⁰⁷ See PX1, ¶ 14; PX7 (copy of the complaint); PX8 (copy of Peterson’s letter). The court docket shows that the case resolved by default in favor of the plaintiff.

¹⁰⁸ See PX1, ¶¶ 15, 40.

IV. CONCLUSION

Peterson operates a simple yet pernicious fake veterans' charity scheme. Since at least 2012, he has lured patriotic and generous Americans using millions of unlawful robocalls and has deceived many of them into donating to his fake charity. He has operated with impunity and disregard for years and is continuing to exploit consumers. Absent an order from this Court, many more will receive Peterson's robocalls and will likely fall for the scheme. The Court has the power to stop all of this immediately. An order by the Court would halt Peterson's unlawful scheme and suspend the means used to perpetrate it. It would also help preserve assets for victims and help ensure that Peterson ultimately does not reap any benefit from the scheme. The evidence presented by the FTC and the equities compel these results, but only the Court can make them reality. For all of these reasons, the FTC respectfully asks the Court to grant, *ex parte*, the attached Proposed TRO.

Dated: July 10, 2018

Respectfully submitted,



Fil M. de Banate (OH 0086039)

Adrienne M. Jenkins (OH 0089568)

FEDERAL TRADE COMMISSION

1111 Superior Avenue East, Suite 200

Cleveland, Ohio 44114

Telephone: (216) 263-3413 (de Banate)

Telephone: (216) 263-3411 (Jenkins)

Facsimile: (216) 263-3426

fdebanate@ftc.gov

ajenkins@ftc.gov

Attorneys for Plaintiff

FEDERAL TRADE COMMISSION